Volume 31 DECEMBER, 1947 Number 4

Journal *of the* American Judicature Society

AMERICAN JUDICATURE SOCIETY
Ann Arbor, Michigan

THE AMERICAN JUDICATURE SOCIETY

To Promote the Efficient Administration of Justice

Founded in 1913 by Herbert Harley

Hutchins Hall

Ann Arbor, Michigan

THIS JOURNAL will be sent free on request to all persons interested in the Administration of Justice. Issued bi-monthly, in February, April, June, August, October and December. Back numbers, except a few rare issues, available at ten cents each.

JOURNAL OF THE AMERICAN JUDICATURE SOCIETY

Vol. 31, No. 4 GLENN R. WINTERS, Editor December, 1947

Law and Religion

ROBERT N. WILKIN

THE MEN WHO HAVE been able to transcend their times and make their lives an inspiration to succeeding ages are the men who have obtained their support from the unseen things which are eternal. The great lawyers of all times, though not always orthodox, have been men of deep religious sensibilities. Cicero's philosophy was almost on a plane with the religious teachings of the church fathers who followed him so closely in Rome. The moral courage and the insight of men like Coke and Blackstone were prompted by an abiding religious faith. Marshall's reverence for religion is well known. Men who can conceive the law must be mindful of the moral forces of life. Men who contemplate the law are naturally prompted to believe in a moral purpose of life. Paraphrasing the statement of the mystic regarding God, we may say that he who observes the word of the law is led to a belief in the law. Lawfulness becomes a source of spiritual clear-sightedness.

The men who give their lives to temporal things are mere children of their age. They are absorbed in the things that are seen and are frustrated by the affairs of their time. Being time-servers they have no time for things eternal. They learn to doubt the mythology of religion and then question the moral worth of religion. They discover that the allegories of religion are not historically true, and they then conclude that they are absolved from all religious restraints. They are actuated only by hope of immediate gain and personal gratification. They give themselves to the lusts of the world and their spiritual forces are submerged in selfishness. But the aim of the great lawyer, like the law he espouses, is justice; and justice is essentially unselfish since it considers the interests of all men. The man of the law has a sense of the ultimate, a deep conviction of the moral order of the universe, and, as Justice Holmes has said, his thought finds unity with the infinite. The spirit of the legal profession is in harmony with all things spiritual.

The basic concepts of the law, indeed the sources of our legal evolution, are founded in religion. "Human dignity," "the equality of men before the law," "that man is sacred to man," these and other fundamental convictions which

TABLE OF CONTENTS

have influenced our development sprang from the idea of a direct relationship between men and a supreme God. The brotherhood of men and our most precious rights and solemn obligations flow from that God-man relationship and the idea that something in man is divine.

From *The Spirit of the Legal Profession* (Yale University Press, 1938), reprinted by permission. The author is judge of the United States District Court for the Northern District of Ohio.

THE ROLE OF THE LAW REVIEW in legal education is the subject of some pointed questions asked by Professor Harold Marsh, Jr., of the University of Washington in a recent article ("The Law Review and the Law School: Some Reflections About Legal Education," 42 Ill. L. Rev. 424-442, Sep.-Oct., 1947). The typical law school, as Professor Marsh points out, selects only a few of its brightest students, as gauged by their grades for their first one or two years, for the valuable privilege of helping to write and edit the law review. It is not uncommon for senior law review students to spend up to 90 per cent of their time in that work, but so far from considering that their legal education is impaired thereby, many of the most prominent law firms will accept only law review men into their employ. This is not mere snobbishness, but a well-founded policy based on the sound argument that the training and experience these men get in law review work is proportionately more valuable than their classroom work.

Why, then, asks Professor Marsh, do law schools continue to discriminate among their students and give this superior training to a small minority of their students, and then proudly present that handful to the profession, leaving the other 85 or 90 percent to shift for themselves with an inferior legal education?

There are those who will argue vehemently that a law review of acceptable literary and scholastic standards could not be run on any other basis. For law school men open-minded enough to recognize the substantial merit contained in this indictment, and willing to approach it with a "What can be done about it?" instead of a "Nothing can be done about it!" attitude, however, Professor Marsh has some stimulating suggestions that deserve a trial somewhere. It is just possible, for example, that if law review tryouts were open to all second and third year students, with a reasonable amount of faculty help available to all on an approximately equal basis, some talent might come to light that would not have been found by the other method, to the actual advantage of the law review. Only those writings of suitably high standards need go into the law review, but the other writers would have had the benefit of the experience even if theirs were never published at all. However, it seems likely that some lesser publication of the remainder, say only for intra-school circulation and perhaps even mimeographed, would, from the standpoint of the students involved, be well worth while.

The study of law is a professional avenue by which men are especially well equipped to contribute to social order and civilized existence. It is a profession which has long since expanded beyond the limits of office practice and court procedures into a ministry for good government and the preservation of fundamental liberties. As the medical doctor has become an adviser on public health, so the lawyer has become a counsellor on public policy and good government.—*Dean L. Dale Coffman.*

General Sessions Courts in Tennessee

HENRY N. WILLIAMS

The progressively successful attacks against the evils of justice of the peace courts in Tennessee[1] have hardly received the attention that they deserve. Although many people in Tennessee have long recognized the evils of the justice of the peace system, especially in the larger cities, the most concerted efforts to bring reform began in 1934.[2]

The justice of the peace is provided for in the constitution of Tennessee.[3] Possibility of abolishing the office is virtually non-existent.[4] The jurisdiction of justice of the peace courts is prescribed by statute.

The initial attacks on the justice of the peace courts culminated in poorly drafted local laws[5] applicable to Hamilton, Unicoi, and Washington counties in 1935.[6] The Supreme Court of Tennessee held each of the three statutes to be unconstitutional,[7] principally for "technical" reasons.[8] During the same session of the General Assembly an attempt on a state-wide basis to set up general sessions courts to replace justice of the peace courts in the several counties met with inglorious defeat.[9]

The demand for elimination of fee grabbing continued with increasing volume during the ensuing biennium. Leadership in the movement was provided by bar associations and civic groups in the larger cities, especially Nashville, Chattanooga, and Knoxville, where the problems doubtless were the most aggravated.

The General Assembly in 1937 created a general sessions court for Davidson County (Nashville).[10] As might be expected a suit designed to test the validity of this general sessions court act was immediately instituted. The act received judicial approval in its entirety.[11] Reports were current at the time that laws estab-

---

Professor Williams is a member of the Political Science Department of Vanderbilt University, Nashville, Tennessee.

1) The pattern of undesirable results from the justice of the peace courts found generally existed in Tennessee. Untrained justices, opportunity for fee grabbing, and "judgment for the plaintiff" are the principal weaknesses of the system. See T. L. Howard, "The Justice of the Peace System in Tennessee," 13 *Tennessee Law Review* 19-38 (1934); cf. Chester H. Smith, "The Justice of the Peace System in the United States," XV *California Law Review* 118 (1927); Judicial Council of Michigan *Fifteenth Annual Report*, pt. II, "A Study of Justices of the Peace and other Minor Courts" (1945).

2) See F. W. Prescott, "Tennessee—War Declared on Fee Grabbing," 23 *National Municipal Review* 281 (May, 1934) and F. W. Prescott, "Tennessee—To Curb Fee Grabbing," 23 *National Municipal Review* 482 (September, 1934).

3) Art. VI, sec. 1. Justices of the peace of a given county acting together constitute the Quarterly Court which is the governing board or body of the county. Individual justices perform the minor judicial functions with which we are concerned here. On county government generally in Tennessee, see C. C. Sim, *County Government in Tennessee* (Ann Arbor, 1935) and William H. Combs and William E. Cole, *Tennessee, A Political Study* (Knoxville, 1940), ch. XIV.

4) Combs and Cole, *op.cit*, ch. II.

5) Local legislation is virtually without restriction in Tennessee. Whenever the delegation in the General Assembly from the county affected sponsors a local measure it is passed without question—or even being read—in the General Assembly by a unanimous vote and approved by the Governor as a matter of courtesy to the sponsoring delegation.

6) *Private Acts*, 1935, chs. 213, 410 and 352.

7) *State ex rel. Ward v. Murrell, Supt.*, 169 Tenn. 688, 90 S.W. (2d) 945 (1936); *Gauge et al. v. McInturff, Sheriff, et al.*, 169 Tenn. 678, 90 S.W. (2d) 753 (1936); and *Spurgeon v. Worley, Sheriff, et al.*, 169 Tenn. 967, 90 S. W. (2d) 948 (1936).

8) The Hamilton County law regulated procedure in an unconstitutional manner; the Unicoi law failed because the body of the act was broader than the caption and thus violated art. 2, sec. 17 of the state constitution; the Washington county statute allowed the court that was to succeed to the judicial power of justice of the peace to determine its own jurisdiction in certain instances.

9) The bill (Senate Bill 661) passed the Senate with 73 counties exempted from its operation through amendments and the bill was tabled in the House after the number of exemptions had been increased to 90 of the 95 counties in the state. Cf. C. Herman Pritchett, "Tennessee—Fee Grabbing Wins," 24 *National Municipal Review* 354 (June, 1935).

10) *Private Acts*, 1937, ch. 12. This act was substantially the same as Senate Bill 611 in the 1935 General Assembly except, of course, its application was limited to Davidson county. The explanation of the failure of members of the Davidson county delegation to sponsor a local bill in 1935 instead of aiding in the sponsorship of the ill-fated Senate Bill 661 is not clear. It would appear that political conditions in Davidson County in 1935 were such that although individual members of its legislative delegation could be active in the support of anti-justice of the peace legislation the delegation *en masse* was not in agreement which made impossible a local bill applicable to Davidson county.

lishing general sessions courts in Knox (Knoxville), Hamilton (Chattanooga), and Montgomery (Clarksville) counties would be passed in 1937[12] but nothing came of the plans.

Following but two years of apparently successful experience with the general sessions court in Davidson county the General Assembly of 1939, at the instance of the respective county delegations, established general sessions courts in Knox, Robertson, Trousdale and Williamson counties.[13] The General Assembly in 1941 established general sessions courts in Bledsoe, Hamilton, Henderson, Leuier, Madison, Shelby and Warren counties.[14] General sessions courts were established in 1943 in Carter, Giles and Lawrence counties,[15] and in 1945 general sessions courts were established in Marshall and Wilson counties.[16] Ten additional general sessions courts were created in 1947 in the following counties: Anderson, Bedford, Blount, Campbell, Cocke, Hemblen, Maury, McMinn, Rutherford, and Sullivan.[17]

Only twelve years after the refusal of the General Assembly to pass a bill providing for general sessions courts in so few as five counties we find that judicial functions formerly exercised by justices of the peace are performed by general sessions courts in twenty-seven, over one-fourth, of the counties of Tennessee. In no instance has a general sessions court been abolished.[18]

Turning our attention to an analysis of the general sessions court[19] we find that there is comparatively little variation in the organization, jurisdiction, and procedure of the courts in the several counties. The general sessions court in Davidson county (Nashville) has definitely been the model for courts subsequently created.

The general sessions court has county-wide jurisdiction in the county in which it is located.[20] The courts created prior to 1947 were given only jurisdiction in civil and criminal cases that formerly was exercised by justices of the peace.[21]

In 1947 the act creating the general sessions court for McMinn county also vested in that court original, exclusive jurisdiction to function as a juvenile court. The act establishing the court in Anderson County provided that in addition to the jurisdiction formerly exercised by justices of the peace the new court would have concurrent jurisdiction with circuit and chancery courts in divorce cases, trial and removal of unfaithful public officials, and proceedings to abate public nuisances. Although the general sessions court act for Hamblen County limited the jurisdiction of the new court in damage cases to suits involving not more than $50 the general sessions court was given the jurisdiction formerly exercised by the county chairman in probate, guardianship, insanity, workmen's

11) *Hancock v. Davidson County,* 171 Tenn. 420, 104 S.W. (2d) 824 (1937). The Supreme Court of Tennessee was not unaware of the problems created by justices of the peace in administering justice. In *Gauge et al. v. McInturff, Sheriff, et al., supra,* the Supreme Court held unconstitutional the anti-j.p. law applicable to Unicoi county, but observed, "We do not pass upon the question of whether the Legislature may by local law deprive justices of the justice of the peace of a single county of all judicial power in civil and criminal cases . . ."

12) See C. Herman Pritchett, "Tennessee—Attacks the J.P. Courts," 26 *National Municipal Review* 96 (1937).

13) *Private Acts,* 1939, chs. 54, 413, 390, and 424.

14) *Private Acts,* 1941, chs. 363, 6, 393, 509, 50, 123, and 91.

15) *Private Acts,* 1943, chs. 333, 186, and 55.

16) *Private Acts,* 1945, chs. 466 and 34.

17) *Private Acts,* 1947, chs. 459, 41, 345, 769, 877, 235, 254, 210, 384, and 349.

18) In several instances general sessions courts have been "abolished" by one act only to be reestablished by another act of the same legislature. This practice has been followed in order that the judge's salary might be increased without danger of violating Art. VI, sec. 7 of the state constitution.

19) There is much similarity between the general sessions court in Tennessee and the trial justice system in Virginia. For a discussion of the latter see "Virginia Solves the Problem of Minor Jurisdiction," 18 *Journal of the American Judicature Society,* 124-125 (1934) and A. F. Kingdon, "The Trial Justice System of Virginia," 23 *Journal of the American Judicature Society,* 216-221 (1940).

20) The Act establishing the general sessions court in Sullivan county indicates in which of two divisions of the court cases shall be tried based upon the civil district (minor subdivision of the county) in which criminal cases originate or defendants reside or are served with process in civil cases.

21) In a few of the less metropolitan counties justices of the peace in districts other than the one in which the county seat is located are authorized to issue criminal and search warrants and accept appearance bonds from any person charged with an offense committed in the district for which such justices of the peace were elected. These justices were sometimes also authorized to issue process on any cause of action "heretofore triable in his district" but all warrants and process were to be returnable to and triable by the general sessions court. Jurisdiction of justices of the peace is exhaustively treated in Jesse L. Rogers, *The Magistrates' Manual and Legal Adviser,* 7th ed. rev. by Stuart, (Nashville, 1942).

compensation and juvenile cases.[22]

General sessions court is frequently held only in the county court house. In counties in which one or more towns are of comparable importance provision is also made for the holding of court in such places. Some of the general sessions court statutes authorize the judge to hold court at other than the places specified in the statute in order to accommodate the parties in a case.

The judge of the general sessions court is required to be a lawyer in most instances.[23] The qualification formula in many instances includes the requirement the judge is to have the same qualifications as judges of the inferior courts.[24] In a few instances the number of years, e.g. three or four, practice of law is specified.

Salaries of judges range from no additional compensation, to the judge who serves *ex-officio* to $5,000 per year in Davidson County (Nashville). The salaries in the metropolitan counties of Shelby, Hamilton and Knox are $4,500, $4,000 and $3,600 respectively. The salaries in some of the less populous counties are $1,800 per annum.

General sessions judges are required to give their full time to their posts in most of the counties, but in a few instances they are permitted to practice law so long as such practice does not interfere with their judicial duties or such practice does not involve cases that originated in the judges' own court.

The General Assembly in Tennessee meets in regular session biennually in odd-numbered years while general elections are held biennially in even-numbered years. To delay the selection of judges of the general sessions courts for fifteen or eighteen months was in most instances thought to be unreasonable and thus prevision had to be made for the selection of judges to serve until the ensuing general election. One of two schemes was employed. The Governor was authorized to appoint the judge until the next general election in most instances while in a few counties the initial judge was specified by name in the act creating the court. The term of office of the general sessions court judge is eight years except in two counties.[25]

The clerk of the circuit court,[26] who is popularly elected for a term of four years, is *ex-officio* clerk of the general sessions court in most counties.[27] The additional salaries of the clerks who are designated *ex-officio* range between $300 and $1,300 per annum in counties in which the circuit court clerk pays for clerical or deputy assistance from his own funds while in counties that compensate the clerk's deputies provision is made that additional deputies may be appointed "acording to law."[28]

General sessions court clerks are required to keep dockets in the detail set out in the statutes establishing the several courts, that would appear to furnish adequate information. The clerks receive all court costs and must pay same to the county either monthly or quarterly. Clerks are given authority concurrently with the judges to issue warrants and other processes and writs other than those required by law to

22) A revision of the Robertson County general session court law increased jurisdiction of the court to include concurrent jurisdiction with circuit and chancery courts in divorce cases. *Private Acts*, 1947, ch. 469. An amendment (*Private Acts* 1947, ch. 755) specifically excluded cases involving drunken driving from the jurisdiction of the newly created general sessions court of Sullivan county.

23) In Lewis county the county judge is *ex-officio*, general sessions judge. County judges are not required by law to be lawyers, but in practice most of them are. In Davidson, Hamilton, Knox and Shelby counties the court sits in three divisions and in Maury and Sullivan counties in two divisions, each of which is presided over by a judge. No mention of the qualifications of judge is found in the Rutherford County general sessions court law. In Maury county the judge must be only "learned in the law" which in Tennessee has been held not to be a requirement for one to be a licensed attorney. *Heard v. Moore*, 290 S.W. 15, 16 (1926).

24) This includes the requirement that the judge be thirty years of age, have been a resident of the state for five years, and of the district (county) for one year.

25) The term of the judge in Rutherford County is four years unless the general sessions court should be held to be an inferior court within the meaning of Art. VI, sec. 4 of the Constitution in which event the term will be eight years. The Warren County statute is hopelessly confused: The judge is to be elected every two years for the term for judges of inferior courts which is eight years.

26) Clerk of the circuit and criminal courts in counties having one clerk for both courts.

27) In Davidson County the clerk of the circuit court is clerk of the general sessions court in civil cases and the clerk of the criminal court is clerk in criminal cases. In Carter County the clerk of the general sessions court is popularly elected for a term of two years while he is appointed by the general sessions court judge in Williamson County.

28) It is interesting to note that in Carter County where the clerk is popularly elected his salary is $1,800 per annum yet in Williamson County the judge-appointed clerk receives only $480 per annum.

be issued only by judicial officers.

In the larger counties judges of the general sessions court appoint court officers while in the smaller counties the sheriff is required to provide a deputy to wait upon the general session court. The several counties provide court room and supplies for use by general sessions courts.

In the statutes establishing general sessions courts in a few counties a limitation has been placed on the right to appeal from decisions in cases tried in these courts. No restriction on appeals from decisions of justice of the peace courts exists and, in general, the rules of practice and pleading in such courts were to apply in general sessions courts. The exception as to appeals found in the Davidson County statute is illustrative:[29] ". . . no appeal shall be granted from a judgment dismissing a suit or judgment which does not exceed the amount of $50.00, exclusive of interest and cost."[30] It has been observed that, "The effect of this requirement has reduced the trial of the Davidson County non-jury docket from two weeks to afternoon trials. These trials are concurrent with the appeals so that the non-jury docket does not give delay to frivolous contests."[31]

An amendment[32] to the act establishing the general sessions court in Davidson pioneered another development that has been incorporated in many subsequent general sessions court statutes. The court is given jurisdiction to try and determine and render final judgment in all misdemeanor cases before it ". . . wherein the person charged with such misdemeanor offenses enters a plea of guilty or requests a trial upon the merits, and expressly waives an indictment, presentment and a Grand Jury investigation, and a jury trial."[33] Experience indicates that by reason of this provision as to misdemeanor cases in Davidson County there has been saved ". . . something like six weeks in each year of the sitting of the grand jury and close to two months of the petit jury, besides saving of turnkey and jail fees for board while awaiting trial."[34]

We may compare the general sessions court in Tennessee with the requirements for an efficient minor court.[35] Perhaps the most obvious criticism of general sessions courts in Tennessee is that they are found in only slightly more than one-fourth of the counties. With much confidence one can anticipate their being established in an increasing number of counties. Experience would seem to warrant the belief that the similarities in the organization, jurisdiction, and procedure of the courts in the several counties would substantially provide the advantages to be expected from a general law establishing general sessions courts, yet the continued use of local or special laws provides a defensible flexibility.

Consideration should be given in Tennessee to the advisability of enlarging the jurisdiction of the general sessions court. The general sessions judge with qualifications equal to those of judges of courts of general jurisdiction is equipped to try cases of greater gravity than the justice of the peace whose only constitutional prerequisite is to be at least twenty-one years of age.

The provisions that all court costs go to the county and that the income of the judge (and clerk) is in no way related to the amount of litigation or the results of litigation comply with important features in a list of requisites for an adequate minor court.

It is believed that the dockets that the clerks are required to keep are adequate, and, in view of the similarity of provisions of the several local laws, they are uniform among the general sessions courts. The possibility exists for the collection of comparable statistics on a statewide basis.

---

29) *Private Acts,* 1937, ch. 12, sec. 6.

30) This provision has been upheld by the State Supreme Court in *Cook v. Guill,* 174 Tenn. 587, 128 S.W. (2d) 345 (1938). Petition for writ of certiorari may be filed with the circuit court and if granted the case would proceed "as if on appeal."

31) A. G. Ewing, "General Sessions Courts," 16 *Tennessee Law Review* 978 (1941).

32) *Private Acts,* 1939, ch. 219, sec. 1.

33) The statute makes it a mandatory duty that the general sessions judge advise the defendants of their constitutional rights before they may waive indictment and jury trial.

34) Ewing, *op.cit.,* at p. 980.

35) Judicial Council of Michigan, *op.cit.,* ch. II.

The Jury Looks at Trial by Jury

The following paper was prepared by George Brand, Jr., George Wright and Richard E. Sieswerda, University of Michigan law students, as a project in a 1947 summer session course in judicial administration taught by Professor Maynard E. Pirsig, visiting professor from the University of Minnesota.

SINCE THE American judicial process arrived at the age of introspection, the value of the common law jury trial has been the center of dispute and conflict. It has been attacked on one hand as slow and inefficient, and praised on the other as the citadel of civil rights. Professors of law, lawyers, disappointed litigants have all had their say, yet strangely enough, the only large group of people who have had a full opportunity to observe the innermost workings of the system do not seem to have expressed their views—the jurors themselves. This study was made to sample their views.

On August 1st, 1947 a questionnaire was mailed to 300 jurors who had served on the Federal District Court at Detroit during the 1945 and 1946 terms of that court. The query covered three legal pages, and consisted of forty-two questions, each of from one to six parts, which could be answered by indicating "yes" or "no" in the appropriate space provided. Of the 300 questionnaires mailed out, 153 replies were received and tabulated at the time this study was written.

The questions were arranged around the following subject headings:

1. The experience and opportunity for observation of the persons polled.

2. The physical surroundings and the environment of the court room. The writers felt that it was not only important that the juror have the feeling that the court room was a place in which the work of justice was carried on, but also that the environment of the court room should have the effect of impressing the juror as a place fit for the process of justice.

3. The function and efficiency of the principal personalities in the administration of justice: the judge, the attorneys, and, to a lesser extent, the witnesses, minor court officials and the jurors themselves. The writers had some curiosity as to the character given to these personalities in literature and the motion pictures—the overly technical judge, the browbeating attorneys and the casual clerk of the court who is often portrayed as administering the oath with tongue in cheek.

4. The system of justice, its end product in terms of just results in the cases heard, and an evaluation of our jury system in the terms of its probable cost in time and money; with a consideration of possible improvements by means of such alternatives as the administrative tribunal or court investigators.

There is no doubt in the mind of the writers that jurors have opinions on these matters, as is evidenced by the fact that more than 50 per cent of those polled replied. It was interesting to note that those opinions were definitely expressed and for the most part with great unanimity by the jurors.

THE EXPERIENCE OF THE JURORS POLLED

There is little evidence that any of the jurors polled were what may be termed "professional jurymen." The average juror had served one and one-half terms and had heard three cases, one criminal trial and two civil actions. The veteran of the group, had served five terms of court and had heard 80 cases according to his estimate. He indicated that he had heard many more in the state courts, and stated that he had heard 34 criminal cases and 19 civil actions in the federal system. This juror was in a class by himself, as the average would indicate.

Although no question was asked on the subject, two jurors volunteered the belief that the terms of jury service should be extended to five or six months, since they felt that they were dismissed just as they had acquired a skill in the fact finding process.

PHYSICAL SURROUNDINGS AND ENVIRONMENT

The jurors were asked if the courtroom measured up to their expectations of what a courtroom should be like, and all replied that it did. Next, they were asked whether,

based on their experience, they thought it to be adequate in respect to its size, quietness, dignity and comfort as suitable to the administration of justice. Aside from nine suggestors of air conditioning, and two who felt that additional waiting rooms should be provided for the jurors who were waiting to be called, and one who wished to see the use of women bailiffs to attend to the needs of women jurors, all those queried felt that the courtroom was adequate in every respect. It is questionable whether such unanimity would be found among jurors who had served in some of our dilapidated and poorly designed courtrooms.

The jurors were then questioned as to the manner in which the court was conducted by the various actors who administer the judicial process. The opinion was almost unanimous, that, considering the amount of business handled, the court was conducted with sufficient dignity (142 to 11) with sufficient attention to each problem (153 to 0), and with reasonable efficiency (153 to 0). There was likewise complete agreement that proper dignity and efficiency was displayed by the judge and the one who administered the oath. Likewise, there was substantial agreement that the jury itself was well-behaved (136 to 17). Concerning the lawyers there was some disagreement. The vote was, however, 97 to 56 in their favor. This was less flattering than a similar split on the conduct of witnesses of 102 to 41. Considering the amount of business handled, only 11 jurors thought that any shortcomings could be remedied by the judge; while 30 thought that the lawyers could do something about it. The replies, however, were all but unanimous to the effect that the shortcomings had no effect upon the decisions reached in the cases heard (149 to 4).

THE PRINCIPAL PERSONALITIES

The first principal actor considered was the judge. There was almost complete approval of the federal court judges. In the words of one juror, who was deeply moved: "The dignity, fairness, knowledge of the law, patience, and understanding shown by our federal judges make an American and a juror feel a deep sense of gratitude to God to be born in a country where everyone has a chance to be fairly and justly dealt with."

All agreed that on their first impression the judge looked and acted like a judge, and further, after they had served, that the judge was fitted for his job (147 to 6), fair and unbiased (148 to 5), and considerate of the participants and their problems (148 to 5).

The report on the lawyers was also favorable; in ability the jurors felt that the lawyers on each side were about equal, (143 to 10), although, most of them also felt that the ability of the lawyers affected the decision in the case (141 to 12). Concerning the sincerity of the lawyers, the jurors were asked if the average lawyer honestly believed in his own case; 89 said "yes" and 64 said "no." Most jurors (137 to 15) believed that this did not affect the decisions. One pointed comment was: "Some lawyers could not possibly have believed in their case." However, there was unanimous agreement that the average lawyer had acted fairly to his own client (152 to 0), to the judge (152 to 1) and to the jury (152 to 1). Most agreed that he was also fair to the witnesses (138 to 12) and to the other side (139 to 14). Concerning the conduct of the lawyer, only 3 out of the 153 thought that he attempted to conceal facts which would have helped the jury decide the case correctly, only 6 that he unnecessarily bullied witnesses, and only 2 thought that he spent too much time with matters having nothing to do with the case. It was almost unanimously felt (149 to 4) that the arguments of the lawyers helped the jury to reach a correct decision in the cases.

In evaluating the function of the lawyer and his methods, the jurors thought that he relied on the facts of the case and on good argument (153 to 0), and 147 of those polled thought that he employed oratory, and only 8 thought that he relied a lot on "just talk and personality."

The jurors' evaluations of their own functions was also marked by a general feeling of approval. There was almost unanimous agreement that the average jury was a good one (151 to 2), that the average juror was of normal intelligence (151 to 1), and of average honesty (153 to 0). The jurors also agreed that the men jurors were better than women (149 to 4) although most of the jurors polled were women. No prejudice was shown on the subject of age, it being almost unanimous (150 to 3) that the older and younger jurors were

of the same caliber. It was encouraging to note that 107 out of the 153 had a better opinion of the jury system after they had served, while 45 had the same opinion, and only one appeared to be disillusioned. We received two well-stated comments agreeing that the average juror was good, but pointing out the difficulty that could be caused by one bad member of a panel. One of these comments referred to a physical handicap of inability to hear and the other to a "sob sister soft heartedness which prevented sending even the most guilty to jail." Intelligence tests, questionnaires and class instruction for jurors were recommended.

All in all, there was almost unanimous approval of the way in which the actors in our judicial contests played their assigned parts. At least, there was a notable absence of the disagreeable characteristics that are often assigned to the judge, lawyers and juries in American literature and motion pictures.

THE SYSTEM PRODUCES JUST RESULTS

In preparing our questionnaire, we sought to obtain the jurors' opinion of the adversary system or party prosecution as a means of determining the truth; the value of the system in terms of its cost; and the possibility of improvements or change to alternative systems. Since the problems are general and intangible, it is difficult to obtain an opinion by means of an objective questionnaire which calls for yes and no answers. Likewise the field lies close to prejudices in favor of traditional institutions. Because of these prejudices no specific section was assigned to achieving an answer to these problems, but the questions were worked through all of the topic headings. For example under the heading "Concerning the Judge," part of the questions were on the personal characteristics of the judge and a part were on his function in the present system, and possible alternative schemes.

The jurors believed that the present system produces just results. There were only two dissents to the proposition that the "decisions reached were usually just and right." In cases where they were not, the blame was apportioned as follows: no one blamed the judge; seven out of the 153 blamed the lawyers, 24 out of 153 blamed the jury. There was unanimous satisfaction with the evidence presented. All agreed that most of the evidence was on the real and important points of the case; all except two thought that it was sufficient in amount; only five thought that good evidence was kept out by too strict rules. Likewise there was almost unanimous belief (141 to 12) that the decisions of the jury were based primarily on the facts of the case. Only four jurors felt that the arguments of the lawyers were of no help in reaching a correct decision, and only one felt that the instructions of the judge were not clear and helpful.

However, when the jurors were told that the estimated cost of a day in court under the jury system was $400.00, only six of the 153 felt that it was worth this cost to settle the dispute in most of the cases that they heard. When asked who should pay the cost, 93 favored the losing party, and 68 thought that the parties should divide the costs. Only two believed that the general public should bear this expense. In approaching the question from another angle, the jurors unanimously agreed that a jury should be called in both simple and complicated criminal cases, and all but four jurors thought that one should be called in complicated civil cases;—*yet only 13 jurors believed that a jury should be called in simple civil cases.* It should be noted that as far as the jurors are concerned, they would reverse the usual legal text-book opinion that a jury is only useful in simple civil cases and not in complicated ones. Doubtless the opinion that a jury should not be called in simple civil cases is not founded upon a lack of confidence in the jury system but upon the unimportance of the dispute in the average case and its failure to justify the expenditure necessarily involved.

ALTERNATIVE METHODS REJECTED

The questionnaire suggested three alternatives that might be substituted for the jury system; one, the use of a court investigator who would report the facts of the case; secondly, conduct of the trial by the judge; thirdly, the substitution of an administrative board. The first of these was overwhelmingly rejected by the jurors. When asked if they felt a better decision would have been reached if a court investigator had made a study of the facts and had reported to the jury instead of having the parties bring witnesses into court, only two of the 153 said yes. From this it appears

that the jury felt that something was to be gained from seeing the witnesses themselves. However it does not appear that the jurors felt that there was as much to be gained from the direct examination of the witnesses for when asked if the witnesses would have given the facts "truer and quicker" if they had been allowed to speak without questioning by their own lawyers they replied yes (103 to 49). The jurors almost completely reversed themselves upon the question of the value of cross examination by the opposing attorneys, for when asked if the witnesses would have given the facts "truer and quicker" if they had been allowed to speak without questioning by the lawyers on the other side they said no (107 to 41).

Several questions were asked to find out whether the jurors would favor increased control of the trial by the judge as a partial or total substitute for party prosecution. A good many of the jurors thought that the judge already actively directed the course of the trial rather than acting as an umpire or referee (61 to 92). And, as noted above, this did not prevent the unanimous approval of the judicial conduct that they had observed. When questioned regarding the examination of witnesses, 152 thought that the witnesses would have given the facts "truer and quicker" if they had been asked questions by the judge instead of the lawyers. This by itself, might seem to indicate that they favored displacing the lawyer entirely, but this is not the case; for when questioned directly on the point the feeling seemed to be that both lawyers and judges were necessary to the administration of justice. Asked whether it would have been better if the judge had taken a more active part in the trial—questioning witnesses, etc., the jurors were almost evenly divided (64 to 89), but when asked if the judge should have acted instead of the lawyers, the answer was almost a unanimous negative (145 to 7); instead the vote was 150 to 3 that the judge should act "along with the lawyers."

A further indication that the jurors recognized the value of the lawyer was to be found in the fact that when asked if "in a courtroom, without an audience, and if there were no technical rules to trap you would you want to present your own law-suit to a jury?" five replied that they would; 148 said no. When similarly asked if they would be willing to present their own law suit to a judge alone, 23 said yes and 130 said no. When still further asked if they would like to present their case "if there were a lawyer on the other side," they voted against it (139 to 14).

The jurors almost unanimously rejected the suggestion that government boards or administrative tribunals be substituted for courts in handling some of the types of cases that they had heard. Three questions were asked: (1) ". . . government boards, instead of courts, now handle some types of cases; do you think their decisions as fair and just as those of courts?" Only 8 answered yes; 145 no. (2) "These boards make decisions at less cost in money and time. Does this make up for any few mistake decisions?" Again "Yes"—8; 145—"No." (3) "Should some of the types of cases you heard be shifted to similar government boards?" "Most?" (5) "Many?" (2) "Few?" (1) "None?" (145). It is quite apparent that the jurors' approval of judge control of the judicial process is not to be interpreted as a trend toward administrative tribunals and away from our present processes, but is rather an expression of approbation for the judge and increased judicial activity within the framework of the present system.

Oklahoma Jurors Suggest Improvements in Courtroom Methods

Since the foregoing article was written, the *Oklahoma Bar Journal* (October 25, 1947) has published an account of a very similar survey conducted by United States Circuit Judge Alfred P. Murrah of Oklahoma City and Dr. John G. Hervey, executive secretary of the Oklahoma Bar Association. The Oklahoma questionnaire went to 375 jurors, 125 of whom had served in the state district court of Oklahoma county, and 250 in federal courts of

Oklahoma, Kansas and Colorado, and the results were compiled from 202 usable replies. A 50 per cent reply to a questionnaire is phenomenal, and the fact that the Oklahoma and Michigan surveys both drew more than that speaks well for the interest in the judicial process manifested by the jurors who participate in it.

The Oklahoma jurors were first questioned about cases in which they had previously appeared as litigants rather than jurors. There were 56 of them, all but three in civil cases. Of the 53, 30 were tried by juries and 23 by the court without a jury. With very few dissents they agreed that the jury verdicts had been fair and that in the non-jury trial the judges had been impartial and open-minded.

In the cases wherein they had themselves served as jurors, the 202 addressees voted the judge impartial (126) and interested (111). Only 53 thought his manner was pleasant. They heard the witnesses distinctly (180-12) and 112 of them professed to understand the judge's instructions, but the fact that 73, or more than a third of them, confessed they did not is something to ponder. However, they agreed by 146 to 14 that the juries had followed the instructions, and, 106 to 10, that the verdicts had been fair.

A small majority, 96 to 73, thought there had been unnecessary delays, mostly short ones (76-20), and while many did not venture an opinion, 46 thought the judge, and 20 the lawyers, might have prevented them. The Detroit survey, by contrast, laid the responsibility on the lawyers rather than the judges by a majority of 30 to 11. By 169 to 8 the Oklahomans endorsed the work of the lawyers in court and credited them with making clear the essential facts upon which the verdict depended. By 105 to 12 (5 of the latter in one federal district), they expressed their willingness to have their own cases tried by the jury on which they sat. It is somewhat shocking to discover that the jurors believed false testimony or perjury had been present in 58 cases and absent in only 53.

In compliance with a *carte blanche* invitation to make general suggestions for improving the administration of justice, nearly half of those who replied offered some seventy-odd suggestions, summarized by Dr. Hervey into the following twenty paragraphs, which are well worth reprinting in full:

1. "There should be schools for jurors."

2. Judges should instruct jurors "to take plenty of time in reaching a verdict."

3. Criminal trials are "delayed for months or years, until witnesses die or move away." "More speed and promptness in bringing criminals to trial would help." "Judges should not permit lawyers to whom they are indebted for election or appointment to stall for delays in trying criminals. When I read in our local paper that certain lawyers have been hired, I know that the case won't come to trial for two or three years and not much will be done when it is tried then." "Speed up the procedures of getting cases to trial. These delays, more than anything else, have brought the legal profession into disrespect in the minds of laymen. People cannot plan for the future, pending the outcome of lawsuits."

4. "There should be fewer excuses from jury service. Also, the perpetual jury server should be eliminated."

5. "The judges should be selected by lawyers." "They should be appointed and not elected—at least let the lawyers nominate the candidates if they are to be elected."

6. "Five minute recesses were always drawn out from 15 to 30 minutes." "To a layman there seems to be quite a noticeable amount of tardiness on the part of judges and lawyers. The time lost in getting under way in the morning amounts to a good many man hours." "Cases should be finished when they have only a few hours to go, and not have jurors return at the judge's pleasure for a few hours the next day." "Do not interrupt the trial of a case to hear another case."

7. "Have state judges elected upon a nonpartisan ticket so that they would be under no obligation to any party."

8. "No politician should be rewarded with a judgeship."

9. "Jurors are restive and irritated with long closing speeches of lawyers. Unless the attorney has won his case in the actual trial, he has only a remote chance of affecting the verdict through long argument to the jury." "No lawyer need be an actor when pleading a case."

10. "The judge's instructions were not given in sufficient detail, and contained too many legal words and phrases not familiar to a layman."

11. "A juror should be permitted to ask questions of witnesses to clarify testimony and avoid false impressions." "Why must everyone stand when the judge enters? We ought to know the reason for this." "When a witness concludes, and before he leaves the stand, let the jurors, like the judge, ask questions if the testimony is not clear."

12. "Lawyers should not demand a flat 'yes' or 'no' answer of a witness, but should allow such an answer to be further explained or qualified." There is a need for "more direct, pointed questions of witnesses to bring out the vital facts. An honest, gentlemanly manner seemed to appeal to all of us and is unquestionably a factor in favorable consideration on the part of the jury."

13. "If trial judges in state courts knew that they could serve only two terms they could be independent, render justice, and not have to favor friends and political supporters."

14. "If some question is answered before it can be objected to, the lawyer might as well let it go, because the jury will think of that part more readily than other questions."

15. "Neither the litigants nor the lawyers need six months in which to appeal their cases." "When cases are appealed, why don't the courts decide them? I know of one case which has been appealed for six years and God only knows when it will be decided."

16. "Technicalities should be played down. The only use of a technicality, so far as we of the public can see, is to defeat the real purpose of the law. This is the greatest of abuses and causes much contempt in the public eye."

17. "Lawyers and judges would do well to think more of justice and less of money."

18. "Since I answered that I believe false testimony was introduced in some of the cases, it appears to me that more emphasis should be placed on the administration of the oath itself, with some instructions from the court as to the penalties for perjury."

19. The trial judge "can very easily influence most jurors and witnesses and for that reason he should be very sure that he is right." "Jurors are not dumb and most of them can read between the lines, as it were, in what lawyers and judges say."

20. "More comfort for jurors, such as silent chairs, cushions on chairs, removal of coats in hot weather, telephone service for business calls, better ventilation, electric fans, and plenty of ice water in the jury room."

New Assignment System Speeds Handling of Criminal Cases

A new system of assigning criminal cases adopted about two and one-half years ago in the United States District Court for the District of Columbia has worked wonders in bringing the court's calendar up to date, and is attracting favorable attention from other courts throughout the country.

The essence of the new procedure is the assignment of cases by the Assignment Commissioner of the court, under the supervision of the presiding judge of Criminal Court No. 1, instead of by the United States Attorney, as before.

Under the old system, as explained by Chief Justice Bolitha J. Laws at the last Judicial Conference, almost unlimited continuances were granted, usually by consent of counsel, and many cases of defendants on bail remained untried for as long as three or four years, after which they were often nolle prossed because of dispersion of witnesses or lack of interest in prosecution. In the spring there was a seasonal rush to dispose of deferred cases before the summer recess, requiring additional judges in the criminal divisions.

Under the new plan, counsel agree upon a trial date at time of arraignment, usually within a week after indictment, or, if they cannot agree, a date is assigned, subject to revision upon application promptly made. Continuances by agreement of counsel are not usually granted, and such as are granted are to a definite date. One hitch which arose with regard to continuances was the attorney representing from forty to as high as eighty defendants at one time. A rule was adopted to the effect that engagement by an attorney in another court or division of that court would not be ground for postpone-

ment if he was attorney of record in more than twenty-five cases in that court. This rule makes it an obligation of counsel for defendants as well as the court to plan for early disposition of cases.

Numerous refinements have added to the new procedure from time to time, to increase its effectiveness. Thus, to assure attendance of police witnesses, a plan was worked out whereby a subpoena for a policeman might be left at his headquarters with the officer in charge there under a definite duty to see that it comes to his attention, and arrangements were made whereby a policeman with business in more than one court might go elsewhere and leave word where he might be reached when the case involving him comes up, rather than having to come in and wait. A plan was also worked out whereby narcotic cases in which the same agent or informer appears as a witness are grouped for trial at or about the same time, and given precedence over cases involving only local witnesses.

Statistics cited by Chief Justice Laws testify to the effectiveness of the new procedure. Triable cases (in which no legal impediment to immediate trial exists) one year or more old numbered 127 on October 1, 1945, and just six on May 1, 1947, including four against one individual detained in a mental hospital. On those same dates, triable cases from six to twelve months old were 142 and 11, respectively. In April, 1945, 29 per cent of the cases were tried or disposed of within three weeks after indictment; in April, 1947, the corresponding figure was 70 per cent.

Is the Law Merely "An Instrument for Enforcing a Rich Man's Will?"

In his article "Justice and the Poor, in British India," contributed to last April's issue of this JOURNAL, the Honorable N. N. Pandia of the Bombay Legal Aid Society referred to a letter of inquiry directed by the central government to the provincial governments and the superior courts as to the need for further provision for legal aid to persons of limited means and the lines such further provision should follow. We have recently received a booklet entitled "Justice and the Poor, being the Bombay Legal Aid Society's Study of the Problem," wherein, for the information and assistance of those invited to express their opinions thereon, the Society surveys the entire field and submits its own recommendations. The Society reviews the report of the Rushcliffe Committee in England, and shows how the recommendations of the Rushcliffe Committee could be adapted to conditions in India. The following paragraphs from pages 7 and 8 of the booklet are worth repeating:

"The burden of costs (in which generic term are included court fees, lawyers' charges and other expenses of and incidental to litigation) falls on one or other of three classes of litigants, viz. (1) the litigant living from hand to mouth, colloquially known as Shrama-jivi; (2) the litigant belonging to the middle class; and (3) the litigant belonging to the upper class.

"Members of the first named class are totally devoid of resources wherewith to protect or enforce their legal rights. Because of lack of means, they have to submit to wrongs. This state of affairs engenders and promotes bitterness of spirit, contempt for law, hatred for society and the state, and a tendency on the part of aggrieved persons to take the law into their own hands.

"Members of the class secondly named above are unable, with their own unaided resources, to obtain redress of their wrongs through a court of law. To meet the costs of litigation, they are compelled either to incur debts or to enter into champertous agreements with unqualified traffickers in litigation. Suitors of this type come out of litigation losers, whether or not they succeed in their suit. They scoffingly exclaim that the doors of justice are open to all, even like the doors of the Ritz Hotel, and having burnt their fingers once, they lose faith in the machinery of justice and fight shy of availing themselves of it evermore.

"The last mentioned class are not really perturbed or kept away by the costs of litigation.

"Justice that is beyond the means of a citizen (even the poorest) is no justice; it tends to be deemed an instrument provided by the law for enforcing a rich man's will—whether right or wrong—upon another, with the help of the state. The machinery of law should be such as to render justice readily and easily accessible to all, rich and poor, literate and illiterate, alike."

Judicial Selection Roundup

I. PRESENT METHODS OF SELECTING STATE COURT JUDGES

1. *All judges appointed, none elected:*

Massachusetts—All judges appointed by governor, confirmed by council.

New Hampshire—All judges appointed by governor and council, each having a negative on the other in both nominations and appointments.

New Jersey—Under the new constitution adopted in November, 1947, to take effect in September, 1948, the governor will appoint all judges subject to confirmation by the senate.

2. *Most judges appointed, a few elected:*

Delaware—All judges appointed by governor, confirmed by senate, except register of wills, elected, and vice chancellor, appointed by chancellor.

Maine—All judges appointed by governor, confirmed by council, except probate judges, elected.

3. *Certain important judges appointed, but many elected:*

California—Judges of the supreme and appellate courts are appointed by the governor, subject to confirmation by a commission; justices of the peace, police judges and city judges may under certain circumstances be appointed; all others are elected.

Florida—Judges of the circuit courts and of the Civil and Criminal Courts of Record are appointed by the governor and confirmed by the senate; all others, including judges of the supreme court, are elected. Political parties may nominate candidates to the circuit court, and in practice this amounts to election of circuit judges in the primary election.

Missouri—Judges of the supreme court, the three appellate courts, and the circuit and probate courts of St. Louis and Jackson County (Kansas City) are appointed by the governor from a list of names submitted to him by a nominating commission; all others are elected.

4. *Legislature selects some or most of judges:*

Connecticut—Until the 1947 election, higher court judges were nominated by the governor and confirmed by the entire legislature; probate judges and justices of the peace were elected; and all others chosen by the legislature, upon nomination of its judiciary committee. Now, by virtue of a constitutional amendment adopted in November, 1947, the judges of the latter group, consisting of town, city, borough and police courts, are to be chosen as are the higher court judges, by nomination of the governor and confirmation by the legislature.

Rhode Island—Higher Court judges selected by legislature; district judges and justices of the peace appointed by governor, the former confirmed by the senate; probate court may be town council or a judge chosen by council or by people.

South Carolina—Judges of the higher trial and appellate courts are chosen by vote of the legislature; county and probate judges are elected; justices of the peace appointed by the governor and confirmed by the senate.

Vermont—Judges of the supreme and superior courts are chosen by vote of the legislature; municipal judges are appointed by the governor; all others are elected.

Virginia—Trial justices are appointed by circuit judges; some inferior court judges are elected; others of them, and all other and higher judges are chosen by vote of the legislature.

5. *Most judges elected, a few appointed.* All judges in the following states are elected except as noted:

Alabama—Judges of certain minor courts are appointed by commissioners.

Colorado—Police judges are appointed by city council; police magistrates by the governor, confirmed by the senate.

Georgia—Judges of county courts and some city courts are appointed by the governor, confirmed by the senate.

Illinois—Judges of the Court of Claims are appointed by the governor and confirmed by the senate.

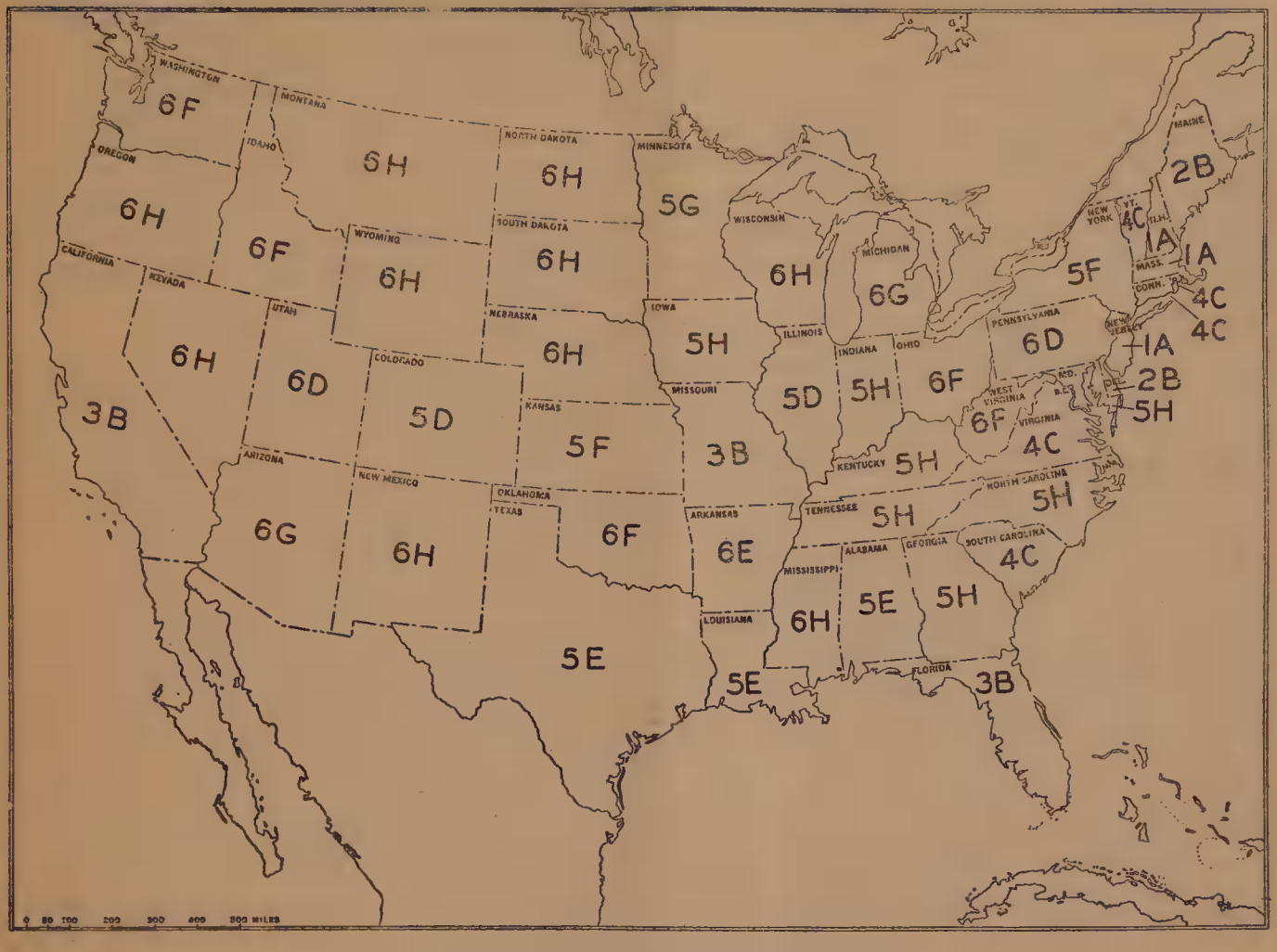
Indiana—Some municipal judges are appointed by the governor.

Iowa—Police judges in certain cities are appointed by the council.

Kansas—Judges of small debtors' courts are appointed by county commissioners or mayor.

Kentucky—Appointment of police judges of certain cities may be authorized by the legisla-

JUDICIAL SELECTION METHODS AND CAMPAIGNS



HOW JUDGES ARE NOW CHOSEN

1. All judges appointed, none elected.
2. Most judges appointed, a few elected.
3. Certain important judges appointed, but many elected.
4. Legislature selects some or most judges.
5. Most judges elected, a few appointed.
6. All judges elected.

JUDICIAL SELECTION CAMPAIGNS

A. Appointive plan in full operation.
B. Appointive plan in operation as to part of judiciary.
C. Legislative selection plans in operation.
D. Appointive plan drafted, approved by bar, awaiting adoption.
E. Appointive plan drafted, awaiting bar approval.
F. Campaign for appointive plan being pushed by bar committees or others.
G. Campaign for appointive plan defeated and presently in eclipse.
H. No activity reported.

---

ture.

Louisiana—Judges of the New Orleans Recorder's Court appointed by the city governing authority.

Maryland—Justices of the peace are appointed by the governor and confirmed by the senate.

Minnesota—Justices of the peace are appointed by the county board in certain counties.

New York—Judges of inferior criminal courts in New York City are appointed by the mayor of the city.

North Carolina—Judges of domestic relations courts, civil county courts, and some justices of the peace are appointed by the governor.

Tennessee—Recorders are appointed by city managers.

Texas—Justices of the peace in unorganized counties are appointed by the administrative board of the governing county.

6. *All judges are elected:* Arizona, Arkansas, Idaho, Michigan, Mississippi, Montana, Ne-

braska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Washington, West Virginia, Wisconsin and Wyoming.

Note—For more details regarding the foregoing, as of 1944, see pages 30 to 50 of Evan Haynes, *Selection and Tenure of Judges*. There have been few changes since 1944. The foregoing does not include the filling of vacancies, which in practically all states including the elective ones is done by appointment of the governor with confirmation by the senate. This is not an unimportant item, for in many states doubtless a majority of the judges first went on the bench in that manner. Definite statistics as to how many in each state would be desirable to complete the picture here presented.

II. STATUS OF JUDICIAL SELECTION REFORM CAMPAIGNS

A. *Appointive plan in full operation.* Massachusetts, New Hampshire, New Jersey.

B. *Appointive plan in operation as to part of judiciary:* California, Delaware, Florida, Maine, Missouri.

C. *Legislative selection plans in operation:* Connecticut, Rhode Island, South Carolina, Vermont, Virginia.

D. *Appointive plan drafted, approved by bar, awaiting adoption:*

Colorado—At its October, 1947, meeting, the Colorado Bar Association approved, as part of the comprehensive proposals of its judiciary committee, a judicial selection plan similar to that of Missouri, whereby judicial vacancies are to be filled by appointment of the governor from a list of nominations submitted by a nominating committee. This, along with the judiciary committee's other proposals for improvement of the state judicial system (described in the October, 1947, JOURNAL, pages 86-87), will be presented to the people for adoption by constitutional amendment after an educational and publicity campaign conducted by the bar.

Illinois—The difficulty of amending the Illinois constitution has made state-wide judicial selection reform all but hopeless, but a movement for an appointive plan applicable only to the Chicago Municipal Court, a statutory court, sponsored by various bar organizations, has reached the legislature but has not yet been adopted.

Pennsylvania—A draft of a constitutional amendment proposing appointment by the governor, from nomination by a non-partisan commission, of judges of the supreme and superior courts and the courts of record of the first and fifth judicial districts, with provision for its adoption by local option election in other judicial districts, was approved by the Pennsylvania Bar Association at its 1947 annual meeting, and will be presented to the voters for adoption after suitable preparation.

Utah—The state bar plan for election of judges from nominations submitted by a non-partisan nominating commission was defeated in the 1947 legislature, but will be introduced again in the next session. By constitutional amendment adopted a few years ago, the power to determine method of selection is vested in the legislature.

E. *Appointive plan drafted, awaiting state bar approval:*

Alabama—A plan for appointment by the governor from nominations submitted by non-partisan nominating commissions, drafted by the Committee on Judicial Selection and Tenure of the Alabama State Bar will be presented to the local bar associations and the state bar for approval during the 1948 season, and, if approved, will go to the legislature in 1949.

Arkansas—Part of a plan for revision of the entire judicial structure of the state presented to the state bar association at its 1946 annual meeting and now in its second year of study and revision by a state bar Commission on Court Reorganization is the proposal, as revised by the Commission, for selection of judges by the Judicial Council, the governing body of the proposed state-wide unified court, upon nomination by vote of the members of the bar. The Commission's completed work will be presented to the Association at its meeting in May, 1948.

Louisiana—Committees of the state bar association and of the Louisiana State Law Institute have been working on proposals for selection of judges to be incorporated into the proposed revision of the state's 1921 constitution. A draft satisfactory to both groups was to have been agreed upon this month.

Texas—A plan for appointment by the governor from nominations submitted by non-partisan nominating commissions, drafted by the Texas Civil Judicial Council as part of a

state-wide court reorganization plan, was submitted to the State Bar of Texas at its July, 1947, meeting, and is now under consideration by committees of that body.

F. *Campaign for appointive plan being pushed by state bar committee and/or other interested organizations:*

Idaho—Selection of judges has been on the agenda of the Idaho State Bar for two or three years, and it is anticipated that at the 1948 convention a definite plan will be agreed upon.

Kansas—Selection of judges has been a subject of attention of the state bar association and the legislative council during the past year, the latter upon direction of the 1947 legislature, and it is now at work on recommendations to be submitted to the 1949 legislature.

Ohio—At its meeting on November 21, 1947, the Council of Delegates of the Ohio Bar Association adopted the report of the Committee on Judicial Administration and Legal Reform which recommended the reorganization of the judicial system of the state and the appointment of a special committee to study appointive judicial systems, to publicize its study, to prepare a definite plan of reorganization, and to campaign for the adoption of its proposed plan after it has been approved.

Oklahoma—The Oklahoma Bar Association at its 1946 convention rejected the proposals of its Committee on Improvement of the Administration of Justice for an appointive judiciary, but, as told elsewhere at greater length in this JOURNAL, at its 1947 meeting, instructed the same committee to present to the joint legislative council considering proposals for extensive constitutional revision, suggestions for numerous improvements in the judiciary, including improvement in the selection and tenure of judges.

Washington—The Committee on Selection of Judges is carrying on a campaign within the Washington State Bar Association, and hopes to win Association approval of an appointive plan within the next year or two. The Committee presented a panel discussion of the subject at the 1947 state bar convention.

West Virginia—At the 1947 annual meeting of the West Virginia Bar Association, President S. S. McNeer devoted his presidential address to urging a program of judicial selection reform under the sponsorship of the Association, and at the conclusion of his address a resolution was adopted authorizing the incoming president to appoint a committee to study the recommendations just made and report on them at the next annual meeting.

G. *Campaign for appointive plan defeated and presently in eclipse:*

Arizona—A complete court reorganization plan, including proposals for appointment of judges by the governor upon nomination of the judicial council, was drafted by the Arizona Judges Association in 1946 for presentation to the legislature, but failed for lack of preparation to secure a minimum of support within the legislature and was not even formally introduced.

Michigan—a plan for appointment of supreme court justices by the governor from nominations submitted by a commission, sponsored by the State Bar of Michigan, was defeated in the November, 1938, election. The following year the voters adopted an amendment providing for non-partisan election of judges, since when the issue has been dormant in Michigan.

Minnesota—The judicial council court reorganization plan, drafted in 1942 and providing for appointment of judges by the chief justice from nominations submitted by a commission, received an adverse report by a committee of the state bar association and is now considered defunct. However, the 1947 legislature created a commission to go over the state constitution and suggest where it should be changed. This may result in an entirely new constitution or a new judiciary article. The judiciary section of the commission, of which Mr. Justice Matson of the supreme court is chairman, is studying recent proposals for modernizing the judiciary in other states, and as a result the whole subject, including selection of judges, may be reopened.

H. *No activity reported:* In none of the following states, all of which elect their judges, has there been reported any recent judicial selection reform movement of sufficient proportions to be called a campaign:

Georgia, Indiana, Iowa, Kentucky, Maryland, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oregon, South Dakota, Tennessee, Wisconsin, Wyoming.

Judicial Statistics of State Courts of Last Resort

The Judicial Administration Section of the American Bar Association is a logical clearing house for information concerning the state courts of this country. Improvements in judicial administration often flow from a full knowledge of conditions as revealed by judicial statistics. As a start in this direction, during the past year the Section has collected some in-

TABLE 1

NUMBER OF CASES DECIDED IN STATE COURTS OF LAST RESORT, WITH AND WITHOUT WRITTEN OPINIONS

State	No. of Judges	Period covered by statistics: Calendar year 1946	Fiscal year 1947	Court year 1946-47	No. of reported majority opinions (not including per curiams)	Cases decided on merits without opinion (includes memo opinions)
ALABAMA	7			x	245	30
Arizona	3	x			75	—
Arkansas	7			x	304	—
CALIFORNIA[1]	7		x		160	85
Colorado	7	x			107	8
Connecticut	5			x	90[2]	—
Florida	7		x		273	410
GEORGIA	7	x			251	61
ILLINOIS	7		x		253	167[3]
INDIANA	5		x		112	—
Iowa	9		x		117	—
Kansas	7		x		224	76[4]
Kentucky[5]	7		x		501	—
LOUISIANA	7			x	204	—
Maryland	6[6]			x	146	—
Massachusetts	7			x	232	26
Michigan	8	x			258	525
Mississippi	9			x	238[7]	68
MISSOURI[5]	7			x	246	97
Montana	5	x			76	—
Nebraska	7			x	143	—
Nevada	3	x			20	—
New Hampshire	5	x			74	—
NEW JERSEY	16[8]		x		160	—
New Mexico	5	x			51	—
NEW YORK	7	x			422[9]	—
North Carolina	7	x			203	42[10]
North Dakota	5		x		52	2
OHIO	7	x			67	60[11]
OKLAHOMA[5]	9	x			297	84[12]
Oregon	7	x			90	—
South Carolina	5		x		110	—
South Dakota	5	x			70	—
TEXAS[14]	9	x			69	184[13]
Vermont	5	x			48	—
Washington[15]	9	x			207	—
West Virginia	5		x		100	12

formation concerning state courts of last resort, which is here presented.

Because of wide differences in procedure and jurisdiction, it was not feasible to show the entire amount of business which passed through these courts. Therefore, the statistics were confined to the number of reported opinions (not including concurring, dissenting or per curiam opinions) and the number of memorandum opinions and cases decided on the merits without opinion. These figures are incomplete, as some states are not represented, but give some idea of the comparable load of published opinions in different jurisdictions. While it will be seen that there is a wide variation between different courts in the case load per judge of published opinions, since this does not represent the total work load in these courts, and since some courts receive cases directly from the trial courts and some from intermediate appellate courts, comparisons can only be made with great caution.

No information is generally available regarding the currency of the dockets and the time for disposition in state courts of last resort. The Council of the Judicial Administration Section authorized the collection of information on this subject, because they thought it both interesting and important. Accordingly lists were made of published decisions in civil cases beginning with October of 1946. Decisions in criminal cases were not included because ordinarily they receive priority. Original writs such as habeas corpus, mandamus, or prohibition or cases of original jurisdiction were not included. When 25 published opinions were not available between October 1946 and

NOTES TO TABLE I.

State whose names appear in upper case letters have intermediate courts of appeal. States whose names appear in lower case letters have no intermediate courts of appeal.

1. Report covers fiscal year 1946. There is no indication that entries in last column are restricted to decisions on the merits.
2. Approximate figure.
3. Includes 11 cases of compensation denied, 13 writs of mandamus denied, 108 petitions for habeas corpus denied and 35 affirmances in People's cases.
4. Includes dismissals.
5. There are 4 commissioners of the court in Kentucky and 6 in Missouri, and 2 referees in Oklahoma.
6. Under 1944 reorganization, the number of judges provide by law was reduced to 5. One judge now sitting will not be replaced.
7. These opinions include a few reported opinions on motion and on suggestion of error (petition for rehearing).
8. Under its new constitution, New Jersey will have a supreme court of 7 members.
9. This is the number of appeals decided in the fiscal year 1946. The number of opinions is not given in the Judicial Council Report.
10. Includes motions to dismiss, petitions for certiorari, and per curiam opinions.
11. Includes 26 per curiam opinions.
12. 84 per curiam opinions written by the referees. Supreme Court hears only appeals in civil cases.
13. Applications refused, no reversible error.
14. Supreme Court hears only appeals in civil cases.
15. Report covers 1945.

TABLE II
MEDIAN* TIME FOR DISPOSITION OF CIVIL CASES IN STATE COURTS OF LAST RESORT

Median* time intervals in months from filing of record to oral argument or submission, from oral argument or submission to termination, and from filing of record to termination, in state courts of last resort, for civil cases terminated in the last quarter of 1946.

State	Filing of record to hearing or submission (months)	Hearing or submission to decision (months)	Filing of record to decision (months)
Alabama	0.1[1]	5.0	5.3[1]
Arkansas	3.8	1.5	6.0
Arizona	10.2	2.1	12.8
California	3.5	3.7	9.2
Colorado[2]	16.5	1.9	18.8
Connecticut	3.0[3]	1.4	4.4
Delaware	3.3	4.1	8.1
Florida	3.3	0.7	3.9
Georgia	1.7	1.2	2.9
Idaho	4.5	0.8	5.2
Illinois	2.6	2.2	6.2
Indiana	2.6	1.8	4.6
Iowa	4.1	0.9	5.4
Kentucky	3.1	3.5	7.6
Louisiana	6.5	0.9	8.1
Maine	4.0	2.1	6.1
Maryland	4.6	0.7	5.3
Massachusetts	4.0	1.8	5.9
Michigan	4.5[4]	1.8	7.0
Minnesota	5.7	1.0	6.9
Mississippi	6.5	0.4	7.1
Missouri	5.5	2.0	7.0
Montana	6.8	1.6	7.7
Nebraska	7.2	1.2	8.6
Nevada	5.9	2.0	8.4
New Hampshire	3.2	0.9	4.1
New Mexico	4.8	4.3	10.3
New York	2.0	1.2	3.2
North Carolina	0.8	0.6	1.4
Ohio	4.8[5]	0.7	5.9

January 1947, cases decided earlier in 1946 or later in 1947 were added. In a few cases, less than 25 cases were used.

The median was employed in this table instead of the average, because of the fact that one or two old cases which may have been held awaiting a decision of another court or at the request of the parties might make a considerable change in the average, but would probably make only a small change in the median. To find the median, all cases are arranged in order of the length of the time interval under consideration and the interval for the middle case of the series is selected. If there are an even number of cases, the median is half way between the time interval of the two middle cases.

In considering this table, it must be borne in mind that there is a wide difference between the rules of the different states as to the time for filing the record and the time for perfecting an appeal. In some states the bill of exceptions need not be filed until just before oral argument, while in others the case is not put on the calendar until the record is on file. Obviously these rules affect the figures appearing in the table.

The data on which the information concerning the state courts of last resort is based was obtained from the clerks in court.

In half of the state courts of last resort the median in reported civil cases from the time of filing of the transcript of record or the bill of exceptions to oral argument or submission was under five months, from oral argument or submission to decision was just over a month and a half, and the over-all median from the filing of the record to decision was just under seven months.

It is interesting to note that the over-all median interval for *all* cases decided after hearing or submission in the United States circuit courts of appeals for the fiscal year 1947 was 6.9 months, approximately the same as the period referred to above for the state courts. The breakdown by circuits is shown in the Table III, taken from the 1947 annual Report of the Director of the Administrative Office of the United States Courts.

It should be particularly noted that in both state and federal courts the median interval between hearing or submission and final decision is short.

The statistical tables concerning the state courts were prepared by Major Harry B. Merican of Washington, D. C., and the entire project was under the supervision of Will Shafroth, head of the Division of Procedural Studies and Statistics of the Administrative Office of the United States Courts, and secretary of the Section of Judicial Administration of the American Bar Association.

Table II (Continued)

Oklahoma	6.5	7.3	14.0
Oregon	8.1	1.4	9.7
Pennsylvania ...	5.7	1.2	7.0
South Carolina..	1.9	1.6	4.6
South Dakota[6] ..	7.5	2.6	10.1
Tennessee	5.8	1.5	6.8
Texas	0.9	1.9	4.4
Utah	3.8	3.2	7.5
Vermont	7.1	2.5	10.4
Virginia	9.4	1.5	11.0
Washington	3.5	0.9	4.9
West Virginia ..	5.4	2.3	7.4
Wisconsin	4.5[7]	1.4	5.4
Wyoming	7.3	1.6	9.2

*Median time interval is the time interval of the middle case when all cases in a group are arranged in order of length of time intervals. Thus, half of the cases have a time interval less than the median and half a time interval greater than the median. The medians for the period from filing to submission and for the period from submission to decision cannot be added together to get the median for the period from filing to decision, for the reason that for each time interval the cases must be arranged in order and the middle case chosen.

NOTES TO TABLE II

1. The transcript must be filed in the Supreme Court of Alabama in all cases of appeal to that court as a rule not later than the first day of the first week of the term during which the case is subject to call. This accounts for the very short period between filing of transcript and argument or submission.
2. The median is for 30 cases decided between July 28, 1947 and October 20, 1947.
3. Date of distribution of the printed record.
4. Date of filing of the printed record.
5. Date of docketing "on its merits".
6. Date of filing of case in Supreme Court. Since transcripts are filed by request of clerk when cases are calendared, that date has not been used.
7. Date of filing of notice of appeal.

At the time of this compilation, no report had been received from Kansas, New Jersey, North Dakota and Rhode Island.

TABLE III

Median Time Intervals in Cases Terminated After Hearing or Submission, in the United States Court of Appeals for the District of Columbia and the United States Circuit Courts of Appeals During the Fiscal Year Ending June 30, 1947, by Circuits

CIRCUIT	From docketing to final disposition		From docketing to filing last brief		From filing last brief to hearing or submission		From hearing or submission to decision or final order	
	CASES	INTERVAL (MOS.)	CASES	INTERVAL (MOS.)	CASES	INTERVAL (MOS.)	CASES	INTERVAL (MOS.)
Total all circuits	1,887	6.9	1,871	3.9	1,873	0.5	1,887	1.5
District of Columbia	182	8.3	180	3.9	180	1.1	182	2.0
First Circuit	73	6.2	73	4.0	73	1.0	73	2.0
Second Circuit	269	3.8	267	1.7	267	0.1	269	1.2
Third Circuit	174	6.9	171	4.2	174	0.2	174	1.9
Fourth Circuit	87	4.1	86	2.6	86	0.2	87	1.0
Fifth Circuit	257	6.7	255	3.6	255	0.7	257	2.3
Sixth Circuit	164	8.0	163	4.4	163	0.6	164	1.7
Seventh Circuit ...	233	7.8	231	5.2	230	0.7	233	1.3
Eighth Circuit	123	7.3	123	4.2	122	0.5	123	1.9
Ninth Circuit	190	9.6	189	5.9	189	1.1	190	1.6
Tenth Circuit	135	6.9	133	4.0	134	0.3	135	2.1

CIRCUIT	From filing notice of appeal in lower court to docketing in appellate court[1]		From judgment in lower court to decision in appellate court		From docketing in lower court to decision in appellate court		Petitions for rehearing, time from filing to disposition of petition	
	CASES	INTERVAL (MOS.)	CASES	INTERVAL (MOS.)	CASES	INTERVAL (MOS.)	CASES	INTERVAL (MOS.)
Total all circuits	1,783	1.3	1,189	11.1	1,401	21.1	473	0.4
District of Columbia	158	1.2	141	11.7	159	20.3	50	0.4
First Circuit	64	2.3	31	10.3	47	18.3	15	0.5
Second Circuit	267	3.6	156	10.5	194	27.5	48	0.3
Third Circuit	168	0.7	84	10.0	116	25.3	20	0.8
Fourth Circuit	86	1.2	65	7.7	73	16.3	11	0.7
Fifth Circuit	256	1.2	191	10.7	209	18.1	97	0.3
Sixth Circuit	143	1.6	81	11.6	90	21.2	21	0.9
Seventh Circuit ...	228	1.2	122	12.2	145	23.0	75	0.6
Eighth Circuit	114	1.5	89	12.4	99	23.0	34	0.5
Ninth Circuit	185	1.3	129	12.4	153	20.9	64	0.3
Tenth Circuit	114	1.3	100	11.6	116	17.2	38	0.5

[1]Includes all appeals from district courts and cases from The Tax Court of the United States.

The best practical politics consists in satisfying the people to a maximum extent. If the people, through education by the bar, fully realized how important to them in their everyday lives is the maintenance of a bench manned by the most competent and impartial judges, they would rise in their might and demand that appointment to the bench be removed from politics as far as possible.—*Charles M. Lyman.*

Are we to go on as we have gone on, year after year, delegating to the political machines the exclusive right to name candidates for judges of our courts? Has not the time come for pressing some movement which will take the nomination of justices out of the category of being the legalized patronage of political parties? —*Samuel Seabury.*

Ethical and Social Problems of the American Lawyer

ROBERT WREN CARY

A bright omen for the future of the legal profession is the fact that an essay like this could have been produced, as it was, in fulfillment of an English class assignment, by a seventeen-year-old student of Ottawa Hills High School, Grand Rapids, Mich. The essay was forwarded to the JOURNAL by the author's father, John C. Cary, Grand Rapids attorney, with a notation that he had not helped in its preparation in any way. Robert is now a pre-law freshman in the University of Michigan.

IN HIS PROFESSION the lawyer is confronted with numerous ethical and social problems. The importance of these problems cannot be overestimated since they have a marked effect on the success or failure of his business. To realize this fully, a complete understanding of the meaning of these terms is essential. Ethical problems are those problems concerning the duties of professional men in regard to the practice of their profession. Social problems are those pertaining to the life and relations of human beings in a community. In regard to the law profession the problems of ethics must be studied from the standpoint of the effect of the lawyer's conduct upon four outstanding factors.

The first of these factors is the public or commonwealth;

The second is the courts and judiciary;

The third is the client; and

The fourth, and last, is the bar and the lawyer's professional brethren. Because of the similarity between the first of these factors and the problems concerning society, the ethical and social problems of law are very closely related. In fact, it is practically impossible to draw a well defined line between the two and say that these are the ethical and those are the social. Hence the only way to study these two closely related problems is by a common study of both. This may be done by considering the relationship of the lawyer to the factors of law—the courts and judiciary, the client, and his professional brethren—under the heading of ethical problems, and his duties to society and the public under the heading of social problems.

The individual lawyer has not been left to work out the answers to these problems by himself, for the American Bar Association and many state bar associations have adopted canons of ethics clearly setting forth his obligations and responsibilities. What are some of them?

TOWARD COURTS AND JUDICIARY

A lawyer should maintain a respectful attitude toward the courts and judges at all times and places. He should avoid any attempts to exert personal influence on the court or judge by such means as marked attention or hospitality, or arguing with the judge, outside of court, about the merits of a pending case. An attorney must never misquote the contents of papers, testimonies, or the language of the opposing counsel. Neither should he offer evidence that he knows the court will reject, nor should he introduce into argument, addressed to the court, remarks or statements with the intent to prejudice the judge or jury.

An attorney should not attempt to obtain favor from a jury by fawning or flattery, nor should he converse privately with jurors about a case that is being tried. Although an attorney may interview any witness for the opposing party without the consent of the opposing counsel, he should avoid any suggestion calculated to induce him to suppress or deviate from the truth.

TOWARD THE CLIENT

An attorney should disclose to his client the circumstances of his relations to parties, interested in or in connection with the controversy, before accepting employment. It is his obligation to represent his client with undivided obligation. Above all, an attorney at law must never divulge the secrets and confidences of his client without his expressed consent. Before an attorney even gives advice or an opinion

of the merits or probable result of a pending suit, he should obtain full knowledge of his client's cause. In doing so, if he finds the controversy will allow fair adjustment, it is his duty to advise his client to avoid or end his suit. Controversies with a client such as suing for fees should at all times be avoided unless necessary to prevent injustice, imposition, or fraud.

The question of how far a lawyer may go in support of a client's case always arises in connection with a lawyer's duties to his client. It is an attorney's duty to do whatever may enable him to succeed in winning his client's cause as long as it is lawful. Although he owes to his client every benefit of remedy and defense, it is improper for him to assert in argument his personal belief in his client's innocence or in the justice of his cause. The appearance of a lawyer as a witness in behalf of his client except when essential is also considered improper. Another question that arises is that of the preservation of a client's confidences. Not only does an attorney's preservation of his client's confidences outlast his employment, but he should not accept subsequent employment which involves the disclosure or use of these confidences without the client's knowledge or consent. Nor should he continue employment when he discovers that this obligation prevents the performance of his full duty to his former or his new client.

TOWARD FELLOW LAWYERS

The attorney should in no way subordinate the importance of this factor to the preceding two. Its significance in regard to the prestige and dignity of the entire profession cannot be over-estimated. One of the most prominent duties of an attorney involves the treatment of opposing counsel. He should never ignore common customs or practice of the bar or courts without giving notice to the opposing counsel. It is also considered improper and unworthy to allude to the personal history, peculiarities, or idiosyncrasies of counsel for the other side and especially so in a trial before a jury. Inasmuch as the only worthy and dignified advertising is the establishment of a well merited reputation, such methods of advertising as circulars, personal communications, or interviews are frowned upon as absolutely unethical. Moreover, it is the duty of the lawyer in upholding the honor of the profession to expose without fear or favor any corrupt or dishonest conduct within the profession and to guard against admission to the bar of unqualified and unfit candidates. Equally important are the requirements of forming a partnership. In its formation, every care should be taken not to violate any laws or to use any misleading name or representation that might create a false impression. Care also should be taken not to admit to the partnership anyone who is not a member of the legal profession. The following rule concerning the division of fees has been inscribed in the Canons of Profession Ethics of the American Bar Association: "No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility."

Another requirement is that an attorney shall not permit his professional services or name to be used in aid of the unauthorized practice of law.

SOCIAL PROBLEMS

Problems that have a bearing on the community or society are known as social problems. Their similarity to the ethical problems may be shown by the fact that in classifying them, some of the same divisions must be used. The four categories in which the social problems are placed are:

Those dealing with society and the profession;

Those dealing with society and the courts;

Those dealing with society and the client; and

Those dealing with society and the lawyer's professional brethren. In each case, however, the prime importance is the effect of the lawyer's conduct upon society and the common citizen. Because of the great significance upon his law practice, it is of much consequence that he should have a knowledge of the problems of the community and society as a whole. In regard to this significance of the community upon the lawyer, Orel Busy said: "There is no profession or class so habitually trusted with so large a measure of public confidence as lawyers."

SOCIETY AND THE PROFESSION

One of the most dominant of an attorney's duties to society and professional prestige is the requirement that he defend a person even in cases which are unpopular in public opinion. Counsel upon the trial of a cause in which perjury has been committed owes it to the pro-

fession and the public to bring the matter to the knowledge of the prosecuting authorities. In like manner, such actions ■■ may tend to awaken the suspicion that social and business friendships constitute an element in influencing his conduct of a case should be avoided. Under threat of disbarment, because of the menace to society and the profession, an attorney must not maintain any alliance with public enemies, which would make him, to all intents and purposes, a partner in crime.

SOCIETY AND THE COURTS

When a case gets too involved for an attorney, he should not attempt to create any diversions that might interrupt the court's procedure. A primary duty of the courts and the entire law profession is that of not merely convicting an accused person but seeing that justice is rightfully done. Likewise, it is the attorney's duty never to use the newspaper to interfere with ■ fair trial or to prejudice the administration of justice. An attorney may not render any service or advice involving disloyalty to the law or disrespect of the judicial office.

SOCIETY AND THE CLIENT

It is of the utmost importance for an attorney while fixing fees to bear in mind the fact that the profession is a branch of the administration of justice and not merely a money-making trade. Equally important is his duty to his client and public of being punctual in attendance and courteous, concise and direct in the trial of a case. Also, after retirement from the profession, an attorney should not accept employment in connection with any matter with which he had dealt while still in the profession.

SOCIETY AND THE BAR

As to his duties to society and his professional brethren, a lawyer is positively forbidden to take part in the practice commonly known as ambulance chasing, not only because it is a public nuisance but because it lowers the honor of the profession and its members. He likewise is forbidden to accept employment from publications in which he gives information upon the law to advise inquirers in respect to their individual rights.

CONCLUSION

As ■ conclusion to our consideration of the social problems of the profession, it is appropriate to quote the words of a noted Frenchman in regard to the significance of law and morals upon society:

"Social organization rests equally on law and morals. The precepts of both are obligatory; those of law are enforced by public authority, those of morals are addressed only to the individual conscience."

Because of the lofty dignity of the profession, the importance of the lawyer's compliance with his duties cannot be overestimated. To show this it is necessary to point out some of the direct results of his failing to be mindful of the ethical and social duties as advocated by the American Bar Association. In many of the less severe cases, the result would be only a loss in prestige among the public, the courts, and the other members of the bar. However, in the more severe cases such as stirring up litigation or aiding in the unlawful practice of law, the result is the threat of removal from the bar, loss of his law practice, or, in case of an offense such as misappropriating client's funds, actual imprisonment. Thus, from the severe consequences that might result from not heeding the prescribed duties of the profession, the significance of the problems of ethics and society to the American lawyer is evident.

Ohio Bar Committee to Draft Court Organization Plan

Ohio must now be added to the list of states wherein the state bar association is actively promoting a broad program of judicial reform, in view of the action of the Council of Delegates at Columbus, November 21, adopting a recommendation of the Judicial Administration and Legal Reform Committee to that end.

In the *Ohio Bar Association Report* of November 10 appears a lengthy report of the Judicial Administration and Legal Reform Committee, reviewing its own efforts and their results over a period of fifteen years, describing certain proposed plans for court organization and selection of judges, and concluding that ■ proposal for a complete overhaul of the state judiciary, such as that proposed for Arkansas and described in this JOURNAL a year ago, might capture the imagination of the voters and stand ■ better chance of success than the "piecemeal" efforts that have so often failed through the years. The report concluded with the following recommendation, which was

approved by the Council of Delegates at its November meeting for immediate implementation and action:

"Recommendation: That this report of the Judicial Administration and Legal Reform Committee of this Association be received by the Council of Delegates and filed, that the idea of a proposed reorganization of the judicial system of the state be approved in principle and that the president of the Association be authorized to nominate and, by and with the advice of the executive committee, appoint a state-wide committee of influential and outstanding lawyers, jurists and students of jurisprudence to study and publicize the same, to prepare and report a definite plan of reorganization, and, if the plan is approved, to actively conduct a campaign for its adoption."

Oklahoma Bar Association Adopts Broad Judicial Reform Program

Opportunity for large-scale judicial reforms in Oklahoma may open up within the next year or two by virtue of a prospective constitutional convention or a systematic program of constitutional amendment. A bill submitting to the people a call for a constitutional convention drafted by the Committee on Improvement of the Administration of Justice of the Oklahoma Bar Association was vetoed by the governor after it had passed both houses of the legislature by large majorities, but a bill was passed creating a joint legislative council to make a study and recommendations to the governor and the 1949 legislature as to the need of revising, altering and amending the constitution, making additions thereto, or rewriting it.

The Oklahoma Bar Association, at its recent October meeting, instructed the Committee on Improvement of the Administration of Justice to present to the joint legislative council the Association's recommendations for a revision of the state judicial system, improvement in the selection and tenure of judges, higher salaries for the judges of the county, district and appellate courts, a retirement plan for judges, abolition of the free-paid justice of the peace, and shortening the time for taking appeals to the courts of last resort.

Philadelphia Bar Association Votes to Establish Lawyers' Reference Plan

A lawyer's reference service will be established in Philadelphia in the near future as a result of action taken at a recent meeting of the Philadelphia Bar Association.

The plan adopted is thus described by the special committee which drafted it:

"It provides that an agency of the bar association will serve to introduce persons of moderate means in need of legal advice to members of the bar who are willing to give a short consultation for a fixed and nominal fee, i.e., five dollars for a period of one-half hour. Any additional service which may prove necessary will be compensated by a fee to be agreed upon between attorney and client.

"All members of the bar of this county may qualify as members of the panel of attorneys to whom the prospective clients are to be referred, and the cases will be rotated among such attorneys by the agency of the association under the general supervision of a committee to be appointed for that purpose.

"The success of the plan will depend upon its receiving widespread publicity, and a ruling of the American Bar Association approves the publicizing of referral services."

Similar plans have been put in operation in New York, Chicago, St. Louis, Los Angeles, Milwaukee, Cincinnati and Baltimore. The American Bar Association went on record as favoring the adoption of such plans at its meeting in Philadelphia in 1940, and again in Atlantic City in 1946. They were discussed in an article in this JOURNAL in August, 1947, by Reginald Heber Smith.

New Constitution Adopted in New Jersey

By a majority of more than four to one, the voters of New Jersey last month adopted a new constitution. A similar attempt was defeated three years ago.

The judicial article, which will take effect next September 15th, will provide New Jersey with a modern, unified judicial system, consisting of a supreme court of seven judges, with broad administrative powers over the entire judicial structure; a superior court of twenty-four or more judges, sitting in three divisions, law, chancery and appellate; and a county court represented by at least one judge in each county of the state. Arthur T. Vanderbilt, leader of the New Jersey bar and former president of the American Bar Association and the American Judicature Society, has been appointed the first chief justice of the new court.

A comprehensive account of the entire campaign for constitutional reform in New Jersey,

the drafting of the judiciary article, and full details regarding it, is now in preparation for publication in the next issue of the JOURNAL.

Paragraphs

A committee of four judges and eight lawyers, headed by G. Aaron Youngquist of Minneapolis, has been appointed by the Supreme Court of Minnesota to draft a new code of civil procedure, pursuant to rule-making authority granted by Chapter 498, Laws of 1947. A state bar committee, of which Ivan Bowen is chairman, is working with the supreme court advisory committee, which has already met, organized, and started to work.

Justice W. A. Devin of the Supreme Court of North Carolina has been appointed chairman of the commission to study the administration of justice in North Carolina created by the 1947 legislature. The commission's recommendations will be submitted to the governor in November, 1948, and, through him, to the 1949 session of the state legislature.

A special crime study commission on criminal law and procedure appointed by Governor Earl Warren of California and headed by Superior Court Judge Isaac Pacht, will examine California substantive and adjective law affecting the administration of criminal justice, civil rights, the organization and administration of the offices of district attorney and public defender, appointment of defense attorneys, and the organization, administration, functions, policies and practices of grand juries and of courts with respect to criminal matters. The commission's report is due July 1, 1949.

Standards of professional conduct for members of the bar of the United States District Court for the Eastern District of Michigan now include the present Canons of Professional Ethics of the American Bar Association, by virtue of an order effective August 1, 1947. The order adds to Local Rule 1 a new section, numbered 5, to that effect. Judges of the court are Ernest A. O'Brien, Arthur F. Lederle, Frank A. Picard, Arthur A. Koscinski and Theodore Levin. See discussion of canons in the April, 1947, JOURNAL (30:197).

A good court room scene is to be found in the current motion picture *Boomerang,* reports Judge Thomas E. Dunbar, editor of *The Nebraska District Judge.*

The Reader's Viewpoint

The Ninety and Nine

To the Editor:

Judge Haralson (JOURNAL, October, 1947) advocates sub-unanimous verdicts in criminal cases, without distinguishing between convictions and acquittals. Are the cases indistinguishable?

Would the judge instruct a jury also to convict on a preponderance of evidence as found by a majority of them? Or would a division of seven to five for conviction accord with his sense of proof beyond a reasonable doubt? Would he discard the presumption of innocence? Is one hopelessly passe who persists in believing that it is better that ninety and nine guilty should go free than that one innocent person should unjustly be punished?

EMMETT L. BENNETT.

Cincinnati, Ohio.

Free-Supported Justices and Due Process of Law

To the Editor:

Most states have the inferior courts of justices of the peace, which officials are paid out of the costs which are the event of the suits involved which they try. The different states seem to have their respective ideas as to what is due process. The Supreme Court of the United States has held *(Tumy v. Ohio,* 273 U. S. 510, 47 S. C. 47, 437ff, 71 L. Ed. 749, 50 A. L. R. 1243 (19)), speaking through Chief Justice William Howard Taft, that where an official sits in judgment, the costs being carried by the event of the suit, it is a denial of due process of law.

Many times the official not only gets the costs, but is permitted to appropriate fines which he himself assesses, to cover costs in cases where

the prosecution failed. The state of Alabama is one which so provides, both as to costs and fines appropriated. *Tumy v. Ohio* was once invoked in the Supreme Court of Alabama, but the court, speaking through Mr. Justice Thomas, held that the Alabama court was not ruled by that decision, and cited that decision in support of that conclusion. *(Moulton v. Byrd,* 224 Ala. 403, 140 So. 384 (1932)). Mention was made in the Alabama opinion that the *Tumy* case was one which involved prohibition. We are unable to see what difference the nature of the cause makes, whether rape, prohibition or treason; the question of due process of law is the issue.

The states owe to the public an effort to make the courts a forum where justice is dispensed according to due process of law, and upon the legal profession falls, in our humble opinion, the duty to sponsor and lead in this endeavor.

We read recently in the columns of this JOURNAL that the state of Michigan was attempting to supplant the old time justice courts with a modern streamlined county court system, and the writer was impressed with the fact that Alabama is in the same situation as Michigan and many other states. We have usually three justices for each precinct in county seat towns and other heavily populated areas; many fines, lots of costs, with never any fines reported officially, much less paid into the county treasury. These are also a nest for the illegal practice of law, with black market legal practices being carried on without let or hindrance.

The legal profession should take an interest in the establishment of forums in keeping with the times and in tune with the decisions of the highest court of the land, and any state which sustains the fee system—judicial officers paid out of fines and costs which they themselves determine—is a back number, and a reflection upon its legal profession as well.

The writer would very much appreciate letters from anyone in any section or locality in regard to the foregoing.

A. WHALEY.

Andalusia, Ala.

The law is a public profession, by which more than any other profession the economic life and the government of the country is modeled.—*Elihu Root.*

The Literature of Judicial Administration

BOOKS

1946-1947 Survey of New York Law, edited by Alison Reppy. Vol. 22, No. 4, New York University Law Quarterly Review, October, 1947. Pp. xlvi and 523 to 948.

It was inevitable that publication of the first few volumes of the *Annual Survey of American Law* should have focused attention on the need for the same sort of thing with respect to legal developments from year to year in each of the states. To be sure, some of the law reviews have made a practice of reviewing at regular intervals the work of the legislature during a biennium, or the work of the state supreme court during a stated time, but neither of those nor both of them can profess to be a comprehensive survey of the entire legal field. It has been suggested with considerable force that a great deal of what we are saying about post-admission legal education is beside the point so long as we lack the primary necessity of something to help us to keep up to date with the law.

What the *Annual Survey of American Law* has done for the past five years for the country as a whole is here done in 431 pages for the state of New York. A similar job ought to be undertaken by the staff of some law school in each one of the forty-eight states, and there can be little doubt that the result would be welcomed by the bench and bar of the state. The New York example also suggests the convenience and appropriateness of publishing the annual survey as one issue of a law review. For most states much less than four hundred pages should be sufficient.

Let us take this important first step before

setting up institutes and post-admission law school courses, and then if the latter are still necessary, let them make use of the annual survey as natural and logical text material.

People's Court, by Edward C. Fisher, judge of the Municipal Court, Lincoln, Neb. Evanston, Ill.: Northwestern University Traffic Institute, 1947. Pp. xii and 164. Cloth, $3.00.

Five years ago George Warren's *Traffic Courts* opened the field for the intensive campaign for improvement of these most numerous and highly important judicial tribunals which has been carried on ever since under the leadership of the American Bar Association through its Traffic Court Committees. In that book, Warren analyzed the prevalent evils in traffic court administration and suggested remedies. The present volume surveys the same ground from the slightly different viewpoint of a judge with long experience in that field, and describes the author's own successful methods of handling the various problems that arise in the trial of traffic cases. Every judge, enforcement officer and student of the subject who has read and made use of the Warren book should follow up with this one to complete the picture.

Federal Administrative Procedure Act and the Administrative Agencies, with Notes and Institute Proceedings, edited by George Warren. New York: New York University School of Law, 1947. Pp. viii and 630. Cloth, $7.50.

This is a companion volume to one published by the same publisher a year ago on the new Federal Rules of Criminal Procedure. It contains the text of the Act, an outline of its legislative background and history by Dean Arthur T. Vanderbilt, an analysis and critique of the Act by Carl McFarland and Frederick F. Blachly, and full transcripts of the Institute discussions of the Act as related to fourteen leading federal administrative agencies, and the three additional topics of rule making, adjudication, and judicial review, each led by an expert in that field.

As stated in the foreword of the book, "In the initial stages of the operations under the Act, it is of special importance that the widest possible publicity be given to the steps now being taken to bring uniformity and order out of the chaos which was formerly administrative law." No better means for accomplishing that objective can be found than a wide circulation of this book.

Texas Law and Legislation. Issued twice a year by students of the School of Law of Southern Methodist University. Vol. I, No. 1, Spring, 1947. 173 pp.

This publication, launched this year by Southern Methodist law students, differs from the average law review, patterned after the sixty-year-old *Harvard Law Review,* in important particulars. It is not divided into articles, comments and case notes, but is all leading articles. All of them are written by students, and not by faculty members or outside contributors. Each issue is to be devoted to a certain topic, and the fourteen essays that comprise the first issue all deal with the problem of reform of Texas criminal procedure. As indicated by its title, it will be quite as concerned with statute law as with case law.

The choice of subject for the initial issue, and whatever substantial reforms in criminal procedure may follow, may doubtless be credited to two recent decisions of the Court of Criminal Appeals remanding the cases because the indictment in the one case charging the defendant with drowning his wife did not specify drowning in water, and the other indictment did not specify that the kicking and stomping which caused the death were done "with his feet."

ARTICLES

"Pre-Trial in the United States," a leading article in the August-September *Canadian Bar Review,* by Harry D. Nims of the New York bar, is a comprehensive account of the use of this procedural device in the courts of this country. Mr. Nims quotes at length from many judges whose use of it has been outstandingly successful, as to their methods, attitudes and results, and many of these quotations are from letters written expressly for this article. A fine, up-to-date evaluation of a procedure that deserves wider adoption in this country as well as in Canada.

Alfred E. Raia, of Miami, in the November *Florida Law Journal* has written on the seldom-touched subject of "Rules Governing the

Conduct of Judges and Their Enforcement." In spite of his reference to an individual canon of ethics as an "ethic" Mr. Raia has produced a good discussion of judicial ethics, and his exploration of the possibilities of proceeding against erring judges in Florida may stimulate some other states to see if nothing better than impeachment can be found for that purpose. The new New York "Court on the Judiciary" should further arouse the attention of bench and bar in this neglected field.

Certification by the organized bar to the public as specialists such of its members as qualify therefor is proposed by Albert I. Kegan and Louis G. Melchior ("Certification—A Proposal to the Bar," 42 Ill. L. Rev. 413-423, Sep.-Oct., 1947) as a solution to several current problems of the profession—the difficulty that confronts the layman in a large city in finding the right lawyer to handle his particular case; the continued increase in unauthorized practice of the law; and the declining prestige of the bar.

Other noteworthy articles in recent magazines:

"New Divorce Procedure," by Edward Pokorny, *Detroit Lawyer*, November, 1947.

"Philadelphia's Legal Reference Plan," by Theodore Voorhees, *The Shingle*, November, 1947.

"Arbitration and the Lawyer," by Frances L. Roth, *Arbitration Journal*, Vol. 2, No. 3, Fall, 1947.

Neither book, article nor case, but of interest to many lawyers and judges, is a "Brief in Support of Equitable Enforcement of Foreign Alimony and Support Orders" prepared by the Committee on Legal Research and Legislation of the National Association of Legal Aid Organizations. The object of the brief is to develop a more extensive use of the equitable powers of courts for that purpose, and the project was a result of a desire to do something about the growing breakdown of family responsibility as reflected in the large numbers of husbands and fathers going into other states to escape their family obligations. The brief is published in a 15-page pamphlet, copies of which may be secured without charge from the National Association of Legal Aid Organizations, 25 Exchange St., Rochester, N. Y.

New Members of the American Judicature Society

Arkansas

Arkadelphia
J. E. Still

Hot Springs
B. W. Thomas

California

Alhambra
Donald O. Krag

Beverly Hills
Laurence W. Beilsenson
Charles J. Griffin
Walter G. Van Pelt
Clore Warne

Carmel
Dudley Kinsell

Downieville
Raymond McIntosh

Eureka
Arthur W. Hill, Jr.

Fresno
G. Levin Aynesworth
Philip Conley

Hanford
K. Van Zante

Hollywood
James B. Irsfeld, Jr.

Inglewood
Vernon P. Spencer

Lakeport
Benjamin C. Jones

Long Beach
Joseph A. Ball
Phil M. Swaffield
Roland G. Swaffield

Los Angeles
Ida May Adams
Robert M. L. Baker
Stanley N. Barnes
Campbell E. Beaumont
James L. Beebe
John R. Berryman, Jr.
Bernard C. Brennan
Benno M. Brink
Wm. Jennings Bryan, Jr.
Howard Burrell
William B. Carman
James M. Carter
R. E. Caughey
Charles O. Chandler
Leo S. Chandler
Thurmond Clarke
Robert A. Cushman
Burdette J. Daniels
Earle M. Daniels
Alex W. Davis
Harry L. Dunn
McIntyre Faries
John J. Ford
Arthur Freston
William Galbally, Jr.
Martin Gang
L. A. Gibbons
Jerry Giesler
Alfred Gitelson
George T. Goggin
Raymond R. Hails
Arthur J. Hair
Aubrey Harwood
Ross R. Hastings
Eugene A. Hawkins, Jr.
Leslie L. Heap
Fred Horowitz
Reuben G. Hunt
Arthur C. Hurt
Harold A. Jones
Harry A. Keithly
Clarence L. Kincaid
Mortimer Kline
Guy Knupp
Dana Latham
Clinton La Tourette
Oscar Lawler
Edward D. Lyman
Lewis E. Lyon
Neil S. McCarthy
Harry J. McClean
William R. McKay
William B. McKesson
A. Calder Mackay
Joseph Marchetti
Shepard Mitchell
Ewell D. Moore
Hewlings Mumper
Louis W. Myers
Bruno Newman
Van C. Niven
Clement D. Nye
Howard Painter
William J. Palmer
Preston B. Plumb
Henry F. Prince
Allan G. Ritter
Clay Robbins
Walter O. Schell
Raymond W. Stephens
Graham L. Sterling, Jr.
Herbert F. Sturdy
Maynard J. Toll
Harry S. Henion
Irving M. Walker
Chandler P. Ward
Jacob Weinberger
Olin Wellborn, III
Frank C. Weller
Emmet H. Wilson
Alfred Wright
J. Howard Ziemann

Martinez
Hugh H. Donovan

Newhall
Paul Palmer

North Hollywood
Charles Newell Carns

Oakland
B. R. Aiken
Liston O. Allen
Markell C. Baer
Maurice J. Bleuel
Everett J. Brown, Jr.
Malcolm M. Champlin
Leon A. Clark
Carlisle C. Crosby
M. W. Dobrzensky
Augustin Donovan
Edward E. Gehring
Harry S. Henion
Thomas T. Inch
Stanley Johnson
W. Reginald Jones
James K. Koford
Richard M. Lyman, Jr.
Kenneth S. Mackenzie
Frank M. Ogden
J. Adrian Palmquist
Carleton L. Rank
J. Paul St. Sure
Willard W. Shea
Samuel H. Wagener
S. Victor Wagler
James C. Walsh
William S. Wells, Jr.
C. Stanley Wood

Palo Alto
Egerton D. Lakin

Pasadena
Robert H. Dunlap
Edwin F. Hahn
John W. Holmes

Richmond
Clifford C. Anglim

Sacramento
Dal M. Lemmon
Walter S. Rountree
Earl Warren

Salinas
Henry G. Jorgensen

San Diego
CHARLES C. HAINES
JOE L. SHELL

San Francisco
PHILIP H. ANGELL
FRED G. ATHEARN
EUGENE D. BENNETT
FRED L. BERRY
ADOLPHUS B. BIANCHI
F. ELDRED BOLAND
M. MITCHELL BOURQUIN
JNO. U. CALKINS, JR.
JESSE W. CARTER
JOHN G. CLARKSON
MELVYN I. CRONIN
GEORGE E. CROTHERS
LOUIS V. CROWLEY
MARTIN J. DINKELSPIEL
HAROLD C. FAULKNER
THOMAS M. FOLEY
W. PARMER FULLER, III
DONALD M. GREGORY
DAN HADSELL
DUDLEY HARKLEROAD
GREGORY A. HARRISON
FRED HERRINGTON
WALTER PERRY JOHNSON
JOSEPH P. LACEY
EDWARD D. LANDELS
EVERETT S. LAYMAN
J. J. LERMAN
BERT W. LEVIT
WILLIAM E. LICKING
ROBERT L. LIPMAN
ROBERT LITTLER
MARSHALL P. MADISON
HARTLEY F. PEART
RAYMOND E. PETERS
ALBERT A. ROSENSTINE
OSCAR SAMUELS
CLARENCE A. SHUEY
WALTER SLACK
DE LANCEY C. SMITH
HOMER R. SPENCE
REGINALD L. VAUGHAN
FRED B. WOOD
EDGAR T. ZOOK

San Luis Obispo
RAY B. LYON

Santa Ana
WINTHROP O. GORDON

Santa Barbara
FRANCIS PRICE, JR.

Santa Clara
JOSEPH P. KELLY

Santa Cruz
EMMET C. RITTENHOUSE

Santa Monica
ORLANDO H. RHODES

Stanford University
J. E. BRENNER

Stockton
GEORGE A. DITZ
RAYMOND M. DUNNE

Van Nuys
PHILBRICK MCCOY

Walnut Creek
PHILIP BANCROFT

Watsonville
R. H. HUDSON

Yreka
JAMES M. ALLEN

Connecticut

New Haven
EDITH VALET COOK

District of Columbia

Washington
CLARENCE P. LE MIRE

Florida

Clearwater
WOLFE, WIGHTMAN & ROWE

Illinois

Chicago
FRANCES BROWN CORWIN

Glen Ellyn
FOREST I. LOFGREN

Indiana

Connersville
MICHAEL L. URDAL

Fort Wayne
SAMUEL D. JACKSON

Gary
CALVIN J. JAMES, SR.

Indianapolis
GLEN F. KLINE

Kentland
GEORGE F. SAMMONS

South Bend
CHARLES P. WATTLES

Michigan

Charlevoix
ROLLIE L. LEWIS

Detroit
AUGUST J. ANTILLA
WILLIAM W. BLOME
JOHN C. BOSSEN BERGER
LEONARD J. BURKE
ALEAN B. CLUTTS
WILLIAM T. CROSS
BIGHAM D. EBLEN
KARL B. GODDARD
JUVENILE COURT
BAYRE LEVIN
LESLIE C. PUTNAM
ROBERT F. ROBBINS
ROYAL E. THOMPSON
WILLIAM A. TRETHEWAY
CHARLES A. WAGNER

Ecanaba
DENIS MCGINN

Fenton
LUTHER E. BLAZIER

Grand Rapids
JOHN C. CARY

Kalamazoo
ROSCOE G. GOEMBEL
FREDRIC J. WHITE

Pontiac
HARCOURT S. PATTERSON

Royal Oak
THOMAS G. WARD, JR.

St. Clair Shores
HAROLD E. PETERSON

Minnesota

Moorhead
BYRON R. WILSON

Missouri

Aurora
REX V. MCPHERSON

Butler
THEO. R. SCHNEIDER

Carthage
R. A. ESTERLY

Clayton
DALTON W. SCHREIBER
ARNOLD J. WILLMANN
HERBERT W. ZIERCHER

Clinton
WALDO P. JOHNSON

Columbia
PAUL M. PETERSON

Farmington
RAYMOND S. ROBERTS

Hermitage
RALPH B. NEVINS

Independence
RUFUS BURRUS

Jefferson City
PHIL M. DONNELLY
IRA H. LOHMAN

Joplin
COWGILL BLAIR, JR.
ARNOLD LEONARD

Kansas City
WILLIAM K. ATWOOD
CHARLES M. BLACKMAR
DANIEL F. BODNEY
JAMES E. CAMPBELL
GEORGE W. CARTER
FRANCIS M. COOK
HENRY DEPPING
BLATCHFORD DOWNING
WARREN A. DRUMMOND
EDWARD J. EISEMAN
CLAUDE A. FISHBURN
CLARENCE L. GERSHON
JAMES H. HERBERT
CHARLES P. HOUGH
ROBERT L. JACKSON
RICHARD C. JENSEN
HORACE W. KIMBRELL
JOSEPH KORALCHIK
CHARLES F. LAMKIN, JR.
JOSEPH M. LAPIN
THURMAN L. MCCORMICK
JOHN H. MCEVERS
GEORGE F. MCGOWAN
JOHN MURPHY
JOHN W. OLIVER
WHITSON ROGERS
CHARLES C. SCOTT
LEO A. SPALDING
THOMAS C. SWANSON
BEN W. SWOFFORD
DAVID TRUSTY
FREDERICK E. WHITTEN
CARL H. WILLBRAND

Kennett
JOHN M. DALTON

Lamar
ROTH H. FAUBION

Louisiana
F. D. WILKINS

Marshfield
JOHN C. POPE

Maryville
J. DORR EWING

Morehouse
ELVIS B. HINSON

Mountain Grove
FRANK R. COLLIER

Poplar Bluff
M. W. HENSON

Rolla
E. W. ALLISON

St. Joseph
LOUIS KRANITZ
RICHARD W. MASON
SIMON POLSKY
FRANCIS SMITH

St. Louis
FORREST BOECKER
HERBERT E. BRYANT
ROBERT H. CHARLES
LOUIS COMERFORD
JAMES E. CROWE
HAROLD J. CUDDY
CARL M. DUBINSKY
J. M. FEIGENBAUM
JAMES P. FINNEGAN
WARNER FULLER
EDMOND A. B. GARESCHE
LESTER GROSS
WILLIAM F. GUFFEY, JR.
JOSEPH F. HOLLAND
D. CALHOUN JONES
WILBUR B. JONES
JOHN W. JOYNT
CLEMENT A. KIEFFER
RAYMOND F. MCNALLY, JR.
JOHN H. MCNATT
A. M. MENZI
LOUIS E. MILLER
JOSEPH WYNNE MURPHY
ROBERT NEILL, JR.
MAX C. NELSON
ERIC P. NEWMAN
THOMAS R. PASCAL
JOSEPH C. PAULEY
OLIVER T. REMMERS
JOHN B. RUESCHHOFF
FRED M. SAIGH, JR.
FRED W. SCHWARZ
G. L. SEEGERS
C. K. SKINKER, JR.
JOHN L. SULLIVAN
FRANK A. THOMPSON
GEORGE F. TORREY
TIMOTHY R. VEAL

Sedalia
WILLIAM K. GIBSON
FRED F. WESNER

Stockton
JOE W. COLLINS

Thayer
T. W. MESARA

West Plains
A. W. LANDIS

Nebraska

Hastings
BRUCKMAN AND DUNMIRE

Humboldt
OTTO KOTOUC, JR.

Loup City
E. W. MOEHNERT

Omaha
GEORGE N. MECHAM

New Mexico

Albuquerque
WILLIAM T. O'SULLIVAN

Oklahoma

Arcadia
C. V. CRABB

Ardmore
T. G. JOHNSON

Britton
BYRON R. SNYDER

Chickasha
J. F. HATCHER

Enid
ROBERT W. SIMONS

Oklahoma City
ROBERT O. BAILEY
REX BELISLE
F. C. LOVE
WILLIAM P. MORRISON, JR.
HARRY W. PRIEST
EARL PRUET
OWEN F. RENEGAR

Stigler
JOHN F. HUDSON

Pryor
ERNEST R. BROWN
R. A. WILKERSON

Sapulpa
DON VICKERS
GLENN O. YOUNG

Seminole
HOMER H. BISHOP
A. S. WELLS

Shawnee
JOHN L. GOODE

Tulsa
FRANK W. ABBOTT
FONT L. ALLEN
BYRON V. BOONE
GEORGE A. CARLSON
WILLIAM C. CARRICK
H. E. CHAMBERS
R. L. DAVIDSON
WALTER DAVISON
C. LAWRENCE ELDER
THOMAS M. FINNEY
T. AUSTIN GAVIN
W. W. HEARD
CHARLES A. HOLDEN
JOSEPH L. HULL
RUSSELL F. HUNT
KATHERINE A. KILE
ALBERT G. KULP
YATES A. LAND
JOHN W. MCCUNE
JEWELL RUSSELL MANN
CHARLES HOYT MARCH, JR.
L. J. MARTIN
EUGENE O. MONNET
ROGER S. RANDOLPH
ALVIN RICHARDS
REMINGTON ROGERS
GEORGE B. SCHWABE
W. F. SEMPLE
C. W. TALBOT
PAUL E. TALIAFERRO
JOHN M. WHEELER

Waurika
DAVE K. SPRADLIND

Wewoka
EARL A. DAVIS
THOMAS J. HORSLEY

Woodward
THOMAS Z. WRIGHT

Pennsylvania

Pittsburgh
FRANK R. S. KAPLAN

Texas

Jasper
JAMES G. BARKER

Longview
OSCAR B. JONES

Tyler
KELLEY SMITH

Vermont

St. Johnsbury
ERNEST E. GOODRICH

West Virginia

Charleston
U. A. KNAPP
WILLIAM O. LIVERMORE

The eyes of the world watch each test of the constitutional structure of the United States. The keystone of that structure is its independent judiciary. It remains for that judiciary to fit its actions so perfectly to the needs of each opportunity that they will strengthen the case for a government of laws as the best guaranty of human liberty.—*Justice Harold H. Burton.*